

UNDERTAKING FOR PROPER CARE & TREATMENT

To whomsoever it may concern

I _____ (name)
c/o _____ (Relative's Name)
resident of _____ (Address)
undertakes the responsibility to obtain regular
outpatient psychiatric treatment for _____
(name of inmate) s/o _____
(father's name) lodged in
_____ prison from _____
(date of admission).

I also undertake to keep due care of _____
(name of inmate)
and prevent him/her from doing any injury to
himself or any other person.

I am related to _____ (name of
inmate) as his/her _____
(father/mother/husband/wife/sister/brother/si
ster-in-law/brother-in-law/son/daughter/son-
in-law/daughterinlaw/grandparents/grandchild
/other).

Fill where applicable:

I belong to _____ an organization
(GO/NGO) who works for the rehabilitation of
mentally ill inmates and I am willing to fulfill this
undertaking as a friend of _____
(name of accused) for his proper care and
treatment.

My proof of identity (PAN Card/Voter Card/
Ration Card/Passport/Driving License/other) is
attached with this undertaking. An affidavit for
the same shall be furnished when required.

Date: _____ Name: _____

Place: _____ Signature: _____

ABOUT CHRI

The Commonwealth Human Rights Initiative (CHRI) is an international, independent non-profit organisation headquartered in India. Its objectives are to promote the practical realisation of human rights in the Commonwealth. In addition to a broad human rights advocacy programme, CHRI advocates access to information and access to justice.

Prison Reforms Programme

As part of its Access to Justice programme, the prison reforms programme focuses on increasing transparency of a traditionally closed system. The programme aims at ensuring accountability of the legal system towards reducing overcrowding and unnecessary long pre-trial detention and prison overstay. Strengthening review and prison oversight mechanisms towards fulfilling rights guaranteed by constitutional and international safeguards for prisoners is the major focus.



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BAIL PROVISIONS FOR MENTALLY ILL UNDER-TRIAL PRISONERS

IS YOUR RELATIVE OR A FRIEND A MENTALLY ILL UNDER-TRIAL PRISONER?



**BEHIND BARS
NOT BEYOND JUSTICE**

KNOW YOUR RIGHTS

A person is a mentally ill under-trial prisoner if she/he:-

- had been detained in prison during the period of investigation, inquiry or trial of his/her case,

AND

- Is kept in the mental patient ward in the prison,

OR

- has been certified 'not fit to stand trial' by the psychiatrist/Medical Board/ concerned court.

A mentally ill under-trial prisoner is eligible for release on bail under section 330 Cr.P.C. if:-

- Accused is suffering from unsoundness of mind or mental retardation which does not require in-patient treatment

- A relative or friend undertakes :
 1. to obtain regular out patient psychiatric treatment

AND

2. to prevent from doing injury to himself or to any other person

An application for bail u/s 330 Cr.P.C. can be made:-

- By contacting a lawyer to file a fresh application for bail, OR

- If one cannot afford a lawyer then apply for free legal aid to the District Legal Services Authority or State Legal Services Authority, OR

- By contacting the Superintendent of the concern prison by writing a letter to the Inspector General of Prison.

The documents required to apply for bail under section 330 Cr.P.C. are:-

- A certificate from the Psychiatrist on the incapability of the mentally ill under-trial prisoner to stand trial.

- A certificate from psychiatrist stating that s/he does not require in-patient medical treatment.

- An undertaking from a friend or relative to obtain regular out-patient treatment and prevent accused from doing injury to self or other.

Options before the court after hearing the public prosecutor:-

- Order release on bail, after recording the reasons, OR

- Order the accused to be kept in such place where regular psychiatric treatment can be provided, OR

- Discharge the accused (under section 328/329) if it finds that no prima facie case is made out against the accused.

Note: The magistrate shall order release of such person on bail in all cases if the above requirements are fulfilled.

Performa for Psychiatrist/Psychologist

CERTIFICATE FOR INCAPABILITY TO STAND TRIAL

To whomsoever it may concern

This is to certify that _____ (name) c/o _____ (father's/mother's name) lodged in _____ prison from _____ (date of admission) is suffering from _____ (name for mental illness) and is not fit to stand trial i.e. incapable of entering defense. S/He is charged u/s _____ in Case Reference No. _____ which is being tried at _____ court. His/her case has been pending for _____ years.

His/her medical papers are attached with this certificate.

Date: _____ Name: _____

Place: _____ Designation: _____

Performa for Psychiatrist/Psychologist

To whomsoever it may concern

This is to certify that _____ (name) c/o _____ (father's/mother's name) lodged in _____ prison from _____ (date of admission) in Case ref no. _____ is suffering from _____ (name of mental illness), and does not require in-patient treatment.

Her/his medical papers are attached with this certificate.

Date: _____ Name: _____

Place: _____ Designation: _____