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La Gazette de L'État de Poudouchéry
The Gazette of Puducherry

PART - II

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GOVERNMENT OF PUDUCHERRY
HOME DEPARTMENT

(G.O. Ms. No. 02, Puducherry, dated 05th February 2025)

NOTIFICATION

In exercise of the powers conferred under section 398 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (Central Act No. 46 of 2023) read with S.O. No. 2506(E), dated 28-06-2024 of the Ministry of Home Affairs, Government of India, New Delhi and in supersession of the Witness Protection Scheme, 2018 notified earlier, save in respect of things done or omitted to be done before such supersession,

the Lieutenant-Governor, Puducherry, hereby notifies a Witness Protection Scheme, 2024 for the Union territory of Puducherry, with a view to ensure the protection of the witnesses, namely:—

PART – I

PRELIMINARY

1. *Short title, extent and commencement.*— (a) The Scheme shall be called, "The Puducherry Witness Protection Scheme, 2024."

(b) It shall extend to the whole of the Union territory of Puducherry.

(c) It shall come into force on and from the date of its publication in the Official Gazette.

2. *Definitions.*— (a) "Act" means the Bharatiya Nagarik Suraksha Sanhita, 2023;

(b) "Competent Authority" means a Standing Committee in each District chaired by the District and Sessions Judge with the Head of the Police in the District as Member and the Head of the Prosecution in the District as its Member-Secretary.

(c) "Concealment of Identity of Witness" means and includes any condition prohibiting the publication or revealing, in any manner, directly or indirectly, of the name, address and other particulars which may lead to the identification of the witness during the investigation, trial and post-trial stage;

(d) "Family Member" includes parents/guardian, spouse, siblings, children, grandchildren of the witness;

(e) "Form" means Witness Protection Application Form appended to this Scheme;

(f) "In Camera Proceedings" means proceedings wherein the Competent Authority/Court allows only those persons who are necessarily to be present, while hearing and deciding the witness protection Application or deposing in the Court;

(g) "Live Link" means and includes a live video link or other such arrangement including any electronic communication through any audio-video electronic means;

(h) "Offence" means those offences which are punishable with death or life imprisonment or an imprisonment up to seven years and above and also offences punishable under sections 74, 75, 76, 77, 78 and 79 of the Bharatiya Nyaya Sanhita, 2023;

(i) "Threat Analysis Report" means a detailed report prepared and submitted by the Head of the Police in the District investigating the case with regard to the seriousness and credibility of the threat perception to the witness or his family members. It shall contain specific details about the nature of threats faced by the witness or his family to their life, reputation or property, apart from analysing the extent, the person or persons making the threat, have the intent, motive and resources to implement the threats. It shall also categorise the threat perception, apart from suggesting the specific witness protection measures which deserves to be taken in the matter;

(j) "Witness" means any person, who has made a statement or who has given or agreed to give evidence in relation to any offence and who possesses information or document about any offence regarded by the Competent Authority as being material to any criminal proceeding or is required to be given protection or assistance under this Scheme;

(k) "Witness Protection Application" means an Application moved by the witness in the prescribed form before a Competent Authority through its Member-Secretary for seeking Witness Protection Order. It can be moved by the witness, his family member, his duly engaged Counsel or Investigating Officer/Officer In-charge/Inspector In-charge/Subdivisional Police Officer/Jail Superintendent concerned;

(l) "Witness Protection Fund" means the Fund created for bearing the expenses incurred during the implementation of the Witness Protection Order passed by the Competent Authority under this Scheme;

(m) "Witness Protection Measures" means measures as spelt out in clause 7, Part-II, Part-III, Part-IV and Part-V of this Scheme;

(n) "Witness Protection Order" means an Order passed by the Competent Authority detailing the witness protection measures to be taken;

(o) "Witness Protection Cell" means a cell constituted at the District Level for witness protection and assigned with the duty to implement the witness protection Order absolutely. At the District Level, this Cell shall be headed by the Superintendent of Police and other suitable person(s) may be co-opted by the head of the Cell.

PART – II

3. *Categories of witness as per threat perception.*—

Category 'A' : Where the threat extends to the life of a witness or his family members, during investigation/trial or thereafter.

Category 'B' : Where the threat extends to safety, reputation or property of the witness or his family members, during the investigation/trial or thereafter.

Category 'C' : Where the threat is moderate and extends to harassment or, intimidation of the witness or his family members, reputation or property, during the investigation/trial or thereafter.

4. *State witness protection fund.*— (a) There shall be a fund, namely, the Witness Protection Fund from which the expenses incurred during the implementation of Witness Protection Order passed by the Competent Authority and other related expenditure, shall be met.

(b) The Witness Protection Fund shall comprise of the following:—

(i) Budgetary allocation made in the Annual Budget by the Government;

(ii) Receipt of amount of costs imposed/ordered to be deposited by the Courts/Tribunals in the Witness Protection Fund;

(iii) Donations/contributions from Philanthropist/Charitable Institutions/Organizations and individuals permitted by the Government;

(iv) Funds contributed under the Corporate Social Responsibility.

(c) The said Fund shall be operated by the Police Department of the Government of Puducherry in accordance with the Standard Operating Procedure notified in G.O. Ms. No. 93/Home/P3/2020, dated 07-12-2020 of the Home Department, Government of Puducherry.

The Witness Protection Fund shall be operated with the following Standard Operating Procedure, namely:—

(a) The Fund shall be operated by the Police Department and shall be monitored by the Competent Authority.

(b) The Funds received from various sources as mentioned in clause 4(b)(i),(ii),(iii) and (iv) of the Scheme shall be deposited in the Savings Bank Account.

(c) The Police Department shall arrange to have a separate Budget Allocation by creating a separate Head of Account in their demand.

(d) The Police Department shall arrange to open an exclusive ESCROW Account in the State Bank India, Puducherry for operation of this Fund.

(e) The Director, Directorate of Accounts and Treasuries, Puducherry shall be the custodian of the ESCROW account for the purpose and to maintain the fund.

(f) The Police Department shall draw the money from the Budget Allocation by way of Grand-in-Aid and deposit the same in Savings Bank Account.

(g) For the Expenditure incurred, necessary utilization certificate shall have to be furnished to the Government and the expenditure shall be audited annually by the Auditor-General.

(h) The quarterly report of the fund position and utilization has to be forwarded by the Police Department to the Home Department, Government of Puducherry.

Witness Protection Cell

In accordance with clause 2(o) of the Witness Protection Scheme, 2024, a dedicated Cell, namely, the Witness Protection Cell is created in the Police Department, Government of Puducherry in order to implement the Witness Protection Order issued by the Competent Authority under the said Scheme.

(i) The Witness Protection Cell shall be a centralized Body based in the Police (Headquarters) of the Union territory of Puducherry.

(ii) The composition of the Witness Protection Cell is as follows:—

- (a) The Director-General of Police, Puducherry. . . Chairman
- (b) The Additional Director-General of Police/ . . Member
Inspector-General of Police / Deputy
Inspector-General of Police / Senior
Superintendent of Police.
- (c) The Senior Superintendent of Police . . Member-
(Headquarters). Secretary.

(iii) The Senior Superintendent of Police (Headquarters) shall be the Nodal Officer to coordinate with the Courts and Home Department, Government of Puducherry regarding the implementation of the Witness Protection Scheme, 2024.

(iv) The Witness Protection Cell shall ensure that the procedures as laid down in clauses (09) to (15) are followed and the Witness Protection Scheme, 2024 is implemented in letter and spirit.

5. *Filing of Application before the Competent Authority.*— The Application for seeking protection Order under this Scheme shall be filed in the prescribed form before the Competent Authority of the concerned District, where the offence is committed, through its Member-Secretary along with the supporting documents, if any.

6. *Procedure for processing the Application.*— (a) As and when, an Application is received by the Member-Secretary of the Competent Authority, in the prescribed form, he shall forthwith pass an Order calling for the Threat Analysis Report from the Superintendent of Police in-charge of the concerned Police Subdivision.

(b) Depending upon the urgency in the matter owing to imminent threat, the Competent Authority can pass Orders for interim protection of the witness or his family members during the pendency of the Application.

Provided that nothing shall preclude Police from providing immediate protection, in case of grave and imminent threat to the life of the Applicant and his family members.

(c) The Threat Analysis Report shall be prepared expeditiously while maintaining full confidentiality and it shall reach the Competent Authority including through electronic means within five working days of receipt of the Order.

(d) The Threat Analysis Report shall categorise the threat perception and also include suggestive protection measures for providing adequate protection to the witness or his family.

(e) While processing the Application for witness protection, the Competent Authority shall also interact in person or through electronic means or a live link with the witness and/or his family members or any other person deemed fit, so as to ascertain the witness protection needs of the witness. The Competent Authority can also conduct its Meeting through a live link.

(f) All the hearings on Witness Protection Application shall be held in-camera by the Competent Authority, by maintaining full confidentiality.

(g) An Application shall be disposed of, within five working days of receipt of Threat Analysis Report from the Police Authorities.

(h) The Witness Protection Order passed by the Competent Authority shall be implemented by the Witness Protection Cell or the Trial Court, as the case may be. Overall responsibility of implementation of all Witness Protection Orders passed by the Competent Authority shall lie on the Head of the Police in the Government of Puducherry.

However, the Witness Protection Order passed by the Competent Authority for change of identity and/or relocation shall be implemented by the Home Department of the Union territory of Puducherry.

(i) Upon passing of a Witness Protection Order, the Witness Protection Cell shall file a monthly follow-up report before the Competent Authority.

(j) In case, the Competent Authority finds that there is a need to revise the Witness Protection Order or an Application is moved in this regard and upon completion of trial, a fresh Threat Analysis Report shall be called from the Superintendent of Police in-charge of the concerned Police Subdivision.

7. *Types of Protection measures.*—The Witness Protection Measures ordered shall be proportionate to the threat and shall be for a specific duration not exceeding three months, at a time. These may include:

- (a) Ensuring that witness and accused do not come face to face during investigation or trial;
- (b) Monitoring of mail and telephone calls;
- (c) Arrangement with the telephone company to change the witness's telephone number or assign him or her an unlisted telephone number;
- (d) Installation of security devices in the witness's home such as security doors, CCTV, alarms, fencing, *etc.*;
- (e) Concealment of identity of the witness by referring to him/her with the changed name or alphabet;
- (f) Emergency contact persons for the witness;
- (g) Close protection, regular patrolling around the witness's house;
- (h) Temporary Change of residence to a relative's house or a nearby town;
- (i) Escort to and from the Court and provision of Government vehicle or a Government funded conveyance on the date of hearing;
- (j) Holding of in-camera trials;
- (k) Allowing a support person to remain present during recording of statement and deposition;
- (l) Usage of specially designed vulnerable witness Court rooms which have special arrangements like live links, one way mirrors and screens, apart from separate passages for witnesses and accused, with option to modify the image of face of the witness and to modify the audio feed of the witness's voice, so that he/she is not identifiable;
- (m) Ensuring expeditious recording of deposition during trial on a day-to-day basis, without adjournments;

(n) Awarding time to time periodical financial aids/grants to the witness from Witness Protection Fund for the purpose of location, sustenance or starting a new vocation/profession, as may be considered necessary;

(o) Any other form of protection measures as considered necessary.

8. *Monitoring and Review.*— Once the protection Order is passed, the Competent Authority would monitor its implementation and can review the same in terms of follow-up reports received in the matter. However, the Competent Authority shall review the Witness Protection Order on a quarterly basis, based on the monthly follow-up report submitted by the Witness Protection Cell.

PART – III

9. *Protection of Identity.*— During the course of investigation or trial of any offence, an Application for seeking identity protection can be filed in the prescribed form before the Competent Authority through its Member-Secretary.

Upon receipt of the Application, the Member-Secretary of the Competent Authority shall call for the Threat Analysis Report. The Competent Authority shall examine the witness or his family members or any other person, as it deems fit to ascertain whether there is necessity to pass an identity protection Order.

During the course of hearing of the Application, the identity of the witness shall not be revealed to another person, which is likely to lead to the witness identification.

The Competent Authority can thereafter, dispose of the Application as per the material available on record.

Once, an Order for protection of identity of witness is passed by the Competent Authority, it shall be the responsibility of the Witness Protection Cell to ensure that identity of such witness/his or her family members including name/parentage/occupation/address/digital footprints are fully protected.

As long as the identity of any witness is protected under an Order of the Competent Authority, the Witness Protection Cell shall provide the details of persons who can be contacted by the witness, in case of emergency.

PART – IV

10. *Change of Identity.*—In appropriate cases, where there is a request from the witness for change of identity and based on the Threat Analysis Report, a decision can be taken for conferring an identity to the witness by the Competent Authority. Conferring new identities includes new name/profession/parentage and providing supporting documents acceptable by the Government Agencies. The new identities shall not deprive the witness from the existing educational/professional/property rights.

PART – V

11. *Relocation of Witness.*— In appropriate cases, where there is a request from the witness for relocation, based on the Threat Analysis Report, a decision can be taken for relocation of the witness by the Competent Authority.

The Competent Authority shall pass an Order for witness relocation to a safer place within the Union territory of Puducherry or territory of the Indian Union, keeping in view the safety, welfare and well being of the witness. The expenses shall be borne from the Witness Protection Fund.

PART – VI

12. *Witness to be apprised of the scheme.*— The Investigating Officer and the Court shall inform the witness about the existence of "The Puducherry Witness Protection Scheme, 2024" and its salient features.

13. *Confidentiality and preservation of records.*— All stakeholders including the Police, the Prosecution Department, Court Staff, Advocates from both sides shall maintain full confidentiality and shall ensure that under no circumstance, any record, document or information in relation to the proceedings under this Scheme shall be shared with any person in any manner except with the Trial Court/Appellate Court and that too, on a written Order.

All the records pertaining to the proceedings under this Scheme shall be preserved till such time the related Trial or Appeal thereof is pending before a Court of Law. After one year of disposal of the last

Court proceedings, the hard copy of the records shall be weeded out by the Competent Authority, after preserving the scanned soft copies of the same.

14. *Recovery of expenses.*— In case, the witness had lodged a false complaint, the Home Department, Government of Puducherry shall initiate proceedings for recovery of the expenditure incurred from the Witness Protection Fund.

15. *Review.*— In case, the witness or the Police Authorities are aggrieved by the decisions of the Competent Authority, a Review Application shall be filed before the Competent Authority within 15 days of passing of the Orders by the Competent Authority.

WITNESS PROTECTION APPLICATION

Under clause (5) of

THE PUDUCHERRY WITNESS PROTECTION SCHEME, 2024

Before.

The Competent Authority, (to be filed in duplicate)
District

Application for :

- | | |
|---------------------------------|----------------------------|
| (1) Witness Protection | : <input type="checkbox"/> |
| (2) Witness Identity Protection | : <input type="checkbox"/> |
| (3) New Identity | : <input type="checkbox"/> |
| (4) Witness Relocation | : <input type="checkbox"/> |

1. Particulars of the Witness (Fill in Capital):

- | | |
|--------------------------------|---|
| (1) Name | : |
| (2) Age | : |
| (3) Gender (Male/Female/Other) | : |
| (4) Father's/Mother's Name | : |

-
- (5) Residential Address :
- (6) Name and other details of family :
members of the witness who are
receiving continuous threats
- (7) Contact details (Mobile/e-mail) :
2. Particulars of the Witness (Fill in Capital) :
- (1) FIR No. :
- (2) Under Section :
- (3) Police Station :
- (4) District :
- (5) D.D. No. :
(In case FIR, not yet registered)
- (6) Cr. Case No. :
(In case of private complaint)
3. Particulars of the accused (if available /known) :
- (1) Name :
- (2) Address :
- (3) Phone Number :
- (4) Email ID :
4. Name and other particulars of the :
person giving/suspected of giving
threat.
5. Nature of threat perception. Please :
give brief of threat received in the
matter with specific date, place, mode
and words used.
6. Type of witness protection measures :
prayed by/for the witness.

7. Details of Interim/urgent witness :
protection needs, if required.

* Applicant/witness can use extra sheets for giving additional information.

Place :

Date : *(Full name with signature)*

UNDERTAKING

- (1) I undertake that I shall fully cooperate with the Competent Authority and the Home Department of this Union Territory and Witness Protection Cell.
- (2) I certify that the information provided by me in this Application is true and correct to the best of my knowledge and belief.
- (3) I understand that in case, information given by me in this Application is found to be false, the Competent Authority under the Scheme reserves the right to recover from me, the expenses incurred on me from the Witness Protection Fund.

Place :

Date : *(Full name with signature)*

(By order of the Lieutenant-Governor)

DR. SHARAT CHAUHAN,
Chief Secretary to Government.