

Bihar Control of Crimes Rules, 1978

JHARKHAND

India

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Rule BIHAR-CONTROL-OF-CRIMES-RULES-1978 of 1978

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1. Short title and commencement.

(1)These rules may be called the Bihar Control of Crimes Rules, 1978.(2)They shall come into force at once.

2. Definition.

- In these rules-(a)"the Code" means the Code of Criminal Procedure, 1973;(b)"the Ordinance" means the [Bihar Control of Crimes Ordinance, 1978] [This may be read as 'Jharkhand Control of Crimes Act, 2002' in view of adaptation of that Act by the State of Jharkhand.] and reference to sections shall be construed as reference to section of the Ordinance;(c)"Schedule" means the Schedule to these rules, and reference to Forms shall be construed as reference to Forms set out in the Schedule.

3.

(1)Action under sub-section (1) of section 3 will not ordinarily be taken by the District Magistrate except on report of a Police Officer not below the rank of Dy. Superintendent of Police or on the basis of any other information. It will not be necessary for the District Magistrate to disclose the identity of the informants and particulars from which such identity can be ascertained to the person proceeded against but only the general nature of the material allegations shall be intimated to such person.(2)Before initiating action on information received from a private individual the District Magistrate shall ordinarily cause secret inquiries to be made in order to ensure that the informations given is not motivated by private grudge.

4.

The notice under sub-section (1) of Section 3 shall as far as may be conform to Form I.

5.

The procedure laid down in Chapter VI of the Code for service of summons shall apply, mutatis mutandis, to the service of notice to a person under sub-section (1) of section 3 and to the service of any order passed under section 3(3), section 4, section 5 or section 6 and the references in that Chapter to "a Court" shall be construed as reference to the District Magistrate or the Commissioner acting under the Ordinance.

6.

While making an order under sub-section (3) of section 3 the District Magistrate may ordinarily require or direct the person affected by the order-(a)to notify his movements to Officer-in-charge of the Police Station (whether in the same district or any other district within or outside Bihar State) nearest to his residence for the time being or to report himself to the said officer at such time and place as may be directed by such officer but not more than once in a day;(b)to observe the prohibition or restriction about possession or use by him of any Lathi, fire-arm, sharp-edged weapon, any intoxicant, liquor, opium, Ganja, Charas or Bhang-,(c)not to be present within a specified distance from any specific educational institution, religious place, Mela, Hat-Bazar, Cinema house or place of public entertainments such as public parks, restaurants and hotels, or around any public office on pay days;(d)in case the Anti-social element removes himself outside "Bihar also to inform the District Magistrate who made the order of his address at fortnightly intervals.Note. - The list is only illustrative and the restrictions and prohibitions to be imposed in each case should be adapted to the circumstances of the case including the character and type of the anti-social elements and the nature of menace posed by him.

7.

(1)The Officer-in-charge of the Police-Station referred to in rule 6 (of [Bihar] [This may be now read as 'Jharkhand'] State shall send a fortnightly report to the District Magistrate who made the order and the Superintendent of Police of that district about the movements of the person to whom a direction has been issued under clause (b) of sub-section (3) of Section 3 and the action, if any, taken with regard to his movements.(2)Where the anti-social element removes himself outside [Bihar] [This may be now read as 'Jharkhand'] State the District Magistrate and the Superintendent of Police shall make a request to their respective counterparts of the district to which he has so removed himself to instruct the officer-in-charge of the police-station concerned to make a like report.

8.

The District Magistrate may make an order under section 4 in case of death, marriage or serious illness of a parent, wife, child, brother or sister or the person against whom an order has been made under clause (a) of sub-section (3) of Section 3 or for enabling him to appear before a Court or authority in obedience to its notice, summons or warrants, or for other compelling reasons.

9.

The District Magistrate, while making an order referred to in rule 8, shall ordinarily lay down the following conditions, namely:-(i)that he shall maintain good behaviour during the period of the order;(ii)that he shall report his arrivals and departures from the city, town or village to the officer-in-charge of the police-station, within whose area he is allowed to return.

10.

The following circumstances shall ordinarily be considered as sufficient to render the giving of an opportunity under section 5 impracticable:-(i)where the person concerned fails to comply with any requirement under clause (a) or clause (d) of rule 6, or(ii)if his whereabouts are not known.

11.

The District Magistrate may, while making an order of extension of the period specified in the order made under section 3 take into consideration the following factors, namely:-(i)the conduct of the person concerned during the period of the enforcement of the order under section 3 ;(ii)any fresh material that may be produced or brought to the notice of the District Magistrate.

12.

The person making a representation under section 5 shall have no right to be represented through counsel, but the District Magistrate in his discretion may entertain any representation through counsel or through any member of his family.

13.

An attested copy of an order made under section 3, section 4, or section 5 shall be supplied to the person against whom it is made.

14.

A memorandum of appeal under section 6 shall contain precise grounds of objection to the order appealed against and shall be accompanied by an attested copy of the said order.

15.

While making an order of stay under sub-section (2) of section 6 the Commissioner shall ordinarily require the person concerned to execute a bond under section 7 for securing that he shall conduct himself during the period of the operation of the said order peacefully and be of good behaviour.

16.

A bond securing the attendance of any person who has appeared before the District Magistrate in response to a notice or warrant of arrest and against whom an order is proposed to be made under section 3 shall be in Form II.

17.

A bond securing the attendance of any person in whose favour the operation of an order under section 3 has been stayed under section 6 shall be in Form III.

18.

A bond referred to in clause (b) of sub-section (1) of section 7 shall be in Form IV.

19.

A warrant of arrest referred to in clause (a) of sub-section (2) of section 7 shall be in Form V.

20.

A bond securing the attendance of any person who has been brought before the District Magistrate in execution of the warrant of arrest issued against him under clause (a) of sub-section (2) of section 7 shall be in Form VI.

21.

A warrant of commitment referred to in clause (b) of sub-section (2) of section 7, of a person who is not already in prison shall be in Form VII.

22.

A warrant of commitment referred to in clause (b) of sub-section (2) of section 7, if a person who is already in prison shall be in Form VIII.

23.

For the purposes of section 8 the following circumstances may also be taken to have probative value:-(i)that the person concerned was acquitted of any offence punishable under all or any of the provisions mentioned in clause (c) of section 2 merely on technical grounds or on benefit of doubt being given to him;(ii)that the person concerned has previously been bound down under section 107, section 108 section 109 section 110 of the Code.

24.

The District Magistrate or the Commissioner may for the purpose of rescinding an order under section 3 in exercise of his power under section 9 take into consideration any of the following factors:-(i)that the person concerned has shown improvement in his behaviour;(ii)that there is ground to believe that the original order of externment or restriction was not necessary;(iii)that it would otherwise be in the public interest to rescind the same.

25.

The District Magistrate shall arrange to maintain such registers as he may be directed from time to time by the State Government.

Schedule

Form INotice under Section 3 of the †Bihar Control of Crimes Ordinance, 1978(See Rule 4)Whereas it appears to me on the basis of information laid before me that-(a)Shri son of Shri.ordinarily residing in..... ... is an anti-social element, that is to say, he either try himself 'or *as a member of *or leader of a gang, habitually commits *or attempts to, commit or abets the commission of offences, punishable under Chapter XVI or Chapter XVII of the Indian Penal Code or 'habitually commits or* abets the commission of offences, under the Suppression of Immoral Traffic in Women and Girls Act, 1956 or 'who by words or otherwise promotes or 'attempts to promote, on grounds of religion, race, language, caste or community or any other grounds whatsoever feeling of enmity or hatred between different religions, racial or language, groups or castes or communities or*has been found habitually passing indecent remarks to or teasing women or girls or ' has been convicted of an offence under sections 25, 26, 27, 28, or 29 of the Arms Act of 1959;(b)his movements or acts in.....are causing or are calculated to cause alarms, danger or harm to person or property/'there are reasonable grounds for believing that he is engaged or about to engage in the district or any part thereof, in the commission of any offence punishable 'under Chapter XVI/*Chapter XVII of the Indian Penal Code, or 'under the Suppression of Immoral Traffic in Women and Girls Act, 1956;(c)witnesses are not willing to come forward to give evidence against him by reason of apprehension on their part as regards the safety of their person or property;And whereas the material allegations against him in respect of the aforesaid clause (a)/(b)/(c) are of the following general nature:-

1.

2.

3.

The said Shri.....is hereby called upon to appear before me on (date) at (time) in my court room and if he so desires, to tender an explanation in writing regarding the said material allegations showing cause why an order under sub-section (3) of section 3 of the Bihar Control of Crimes Ordinance, 1978, may not be made against him, also intimating me whether he desires to examine himself or any other witness (if so, their names and addresses) in support of his explanation. The said Shri..... is hereby called upon to appear, if he fails to appear as aforesaid or if no explanation or intimation is received within the time specified it will be presumed that Shri has no desire to tender any explanation/examine any witness in regard to the said allegations and I will proceed to pass the proposed order. Seal of Court District Magistrate/Additional District Magistrate.† This may be now read as "Jharkhand Control of Crimes Act, 2002".* Delete whichever ingredient is not applicable. Form II Bond and Bail Bond after appearance before District Magistrate (See Rule 16) I (name) of having appeared before the District Magistrate/Additional District Magistrate of.....in response to a notice under sub-section (1) of section 3 of the †Bihar Control of Crimes Ordinance, 1978 do hereby bind myself to attend before the said officer on the... ..day of..... ..next, at the enquiry and to continue so to attend until otherwise directed by the said officer; and in case of my making default, herein I bind myself to forfeit, to the Governor of 'Bihar the sum of rupees..... dated this day of 19(Signature) I do hereby declare myself surety for the abovenamed of.....that he shall attend before the District Magistrate/Additional District Magistrate on the day of..... next, at the enquiry and shall continue so to attend until otherwise directed by the said officer, in case of his making default therein, I bind myself to forfeit to the Governor of 'Bihar the sum of rupees....., dated thisday of.....19.....(Signature) Form III Bond and Bail Bond after appearance before the Commissioner. (See Rule 17) I, (name)having obtained from the Commissioner stay of the operation of the order made against me under sub-section (1) of section 3 of the †Bihar Control of Crimes Ordinance, 1978, do hereby bind myself to attend before the said officer on the day of next, and to continue so to attend until otherwise directed by the said officer and in the case of my making default herein, I bind myself to forfeit to the Governor of *Bihar the sum of rupees.....dated this.....day of.....19.....(Signature) I do hereby declare myself surety for the abovenamed of..... that he shall attend before the Commissioner of.....on the.....date of... next, and shall continue so to attend until otherwise directed by the said officer; and in case of his making default therein, I bind myself to forfeit to the Governor of 'Bihar the sum of rupees.....dated this.....day.....of 19.....(Signature)† This may be now read as "Jharkhand Control of Crimes Act, 2002".* This may be now read as "Jharkhand". Form IV Bond for the observance of certain things (See Rule 18) Whereas I, (name) inhabitant of (place) have been called upon to enter into a bond to secure due observance of..... direction/* requirement/*prohibition/*restriction/*condition specified in an order made against me under/'section 3/*section 4/*section 5/*section 6 of the †Bihar Control of Crimes Ordinance, 1978, for the terms of (State of period).....I hereby bind myself to observe the said

direction/*requirement/*prohibition/*restriction/*condition during the said term; and in case of my making default therein, I bind myself to forfeit to the Governor of ‡Bihar the sum of rupees.....dated thisday of 19.....(Signature)(Where a bond with sureties is to be executed, add)We do hereby declare ourselves sureties for the abovenamed..... ..that he will observe the said direction/*requirement/*prohibition/*restriction/ condition during the said term; and in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to the Governor of ‡Bihar the sum of rupees.....dated this.day of 19.....(Signature)Form VWarrant of Arrest.(See Rule 19)To(name and designation of the person or persons who is or are to execute the warrant).Whereas.....of.....is a person against whom a notice under sub-section (1) of section 3 of the †Bihar Control of Crimes Ordinance, 1978, is being issued, you are hereby directed to arrest the said,... and to produce him before me. Herein fail not.Dated this.....day of.....19.....(Seal)(Signature)This warrant may be endorsed as follows : If the.....said....., shall give bail.....himself in the sum of..... ..with one surety in the sum of.....or two sureties each in the sum of.....to attend before me on date of and to continue so to attend until otherwise directed by me, he may be released.Dated this day of 19.....(Seal)(Signature)* Delete whichever ingredient is not applicable.†This may be now read as "Jharkhand Control of Crimes Act, 2002"‡This may be now read as "Jharkhand".Form VIBond and Bail Bond after arrest under a warrant(See Rule 20)I, (name).....of being brought before the District Magistrate/ Additional District Magistrate of.....under a warrant issued to compel my appearance to answer to the notice under sub-section (1) of section 3 of the †Bihar Control of Crimes Ordinance, 1978, do hereby bind myself to attend before the said officer on the day of.next at the inquiry and to continue so to attend until otherwise directed by the said officer, and, in case of my making default herein, I bind myself to forfeit to the Governor of Bihar the sum of rupees..... dated this day of 19.I do hereby declare myself surety for the abovenamed.....of that he shall attend before the District Magistrate/Addl. District Magistrate ofon the.....day of next, at the inquiry, and shall continue so to attend until other wise directed by the said officer; and, in case of his making default therein, I bind myself to forfeit to the Governor of ‡Bihar the sum of rupeesdated the day of.....19.....Form VIIWarrant of commitment on failure to find security(See Rule 21)ToThe Superintendent (or Keeper) of the Jail at.....Whereas on consideration of the matters given in clauses (a), (b) and (c) of sub-section (1) of section 3 of the †Bihar Control of Crimes Ordinance, 1978 I am satisfied that the conditions specified in the aforesaid clauses for making an order under sub-section (3) of section 3 against (name and description) exist;And whereas, an order has been recorded against him directing him/*requiring him to/*prohibiting him to/*restricting him/*imposing the condition that.....sand further requiring the said (name) to furnish security for the due observance of the said direction/*requirement\/*prohibition/*restriction/*condition for the term of (state the period) by entering into a bond with one surety (or two or more sureties, as the case may be); himself for rupees..... and the surety (or each of the said sureties) for rupees.....and the said (name)...has failed to comply with the said order and for such default has rendered himself liable for commitment to prison for (state the term) unless the said security be sooner furnished:This is to authorise and require you, the said Superintendent (or Keeper) to receive the said (name) into your custody, together with this warrant and to keep him safely in the said jail for the said period of (term of imprisonment) unless he shall in the meantime be lawfully ordered to be

released and to return this warrant with an endorsement certifying the manner of its execution. Given under my hand and the seal of my office, the.....day of.....19.....(Seal)(Signature)* Delete whichever ingredient is not applicable.†This may be now read as "Jharkhand Control of Crimes Act, 2002".‡This may be now read as "Jharkhand". Form VIII Warrant of commitment on failure to find security (See Rule 22) To The Superintendent (or Keeper) of the Jail at.....Whereas, on consideration of the matters given in clauses (a), (b) and (c) of sub-section (1) of section 3, of the †Bihar Control of Crimes Ordinance, 1978 I am satisfied that the conditions for making an order under sub-section (1) of section 3 against (name and description) exist; And whereas an order has been recorded against him directing him/ requiring him to 'prohibiting him to...../'restricting...../'imposing the condition that.....and further requiring the said (name) to furnish security for the due observance of the said direction/*requirement/*prohibition/*restriction/ 'imposing the condition for the term of (state the period) by entering into a bond with one surety (or two or more sureties, as the case may be), himself for rupees.....and the said surety (or each of the said sureties) for rupees.....and the said (name).....has failed to comply with the said order and for such default has rendered himself liable for commitment to prison for (state the term) unless the said security be sooner furnished : And whereas the said (name).....is already in prison; This is to authorise and require you, the said Superintendent (or Keeper), to detain the said (name) into your custody, together with the warrant, and to keep him safely in the said jail for the said period of (term of imprisonment) unless he shall in the meantime be lawfully ordered to be released and to return this warrant with an endorsement certifying the manner of its execution. Given under my hand and the seal of my office, this day of.....19.....(Seal)(Signature)* Delete whichever ingredient is not applicable.†This may be now read as "Jharkhand Control of Crimes Act, 2002"