

6. साक्षी द्वारा/के लिए प्रार्थना किये गये साक्षी संरक्षण उपायों की प्रकृति—
 7. अंतरिम अत्यावश्यक साक्षी संरक्षण आवश्यकताओं के ब्यौरे, यदि अपेक्षित हो।
 साक्षी अपने हस्ताक्षर से एक पृथक दघनबंध काइल करेगा/करेगी कि वह सक्षम प्राधिकारी और जिला मजिस्ट्रेट/साक्षी संरक्षण प्रकोष्ठ के साथ पूर्ण रूप से सहयोग करेगा/करेगी।
 आवेदक/साक्षी अतिरिक्त सूचना देने के लिए अतिरिक्त पन्नों का उपयोग कर सकता है।
 तारीख
 स्थान.....

(हस्ताक्षर सहित पूरा नाम)

**HOME DEPARTMENT
NOTIFICATION**

Jaipur, October 5, 2018

No. F.11(35)Home-10/2016 -Whereas, Hon'ble High Court has observed in S.B. Criminal Misc. Petition 3585/2016 that the state is to be called upon to frame scheme laying down guidelines for witness protection programme and after that Hon'ble Court has taken note of these facts suo motu in S.B. civil writ petition (PIL) 11435/2016.

Therefore, in order to give due respect to the witnesses' convenience, comfort and to give protection to witness from potential threat regarding testimony in a judicial setting or to co-operate with law enforcement and investigation without fear of intimidation or reprisal, the Governor of Rajasthan is pleased to make the following Scheme for protection of witnesses in the state of Rajasthan, while taking a holistic approach to witness protection needs, namely:-

The Rajasthan Witness Protection Scheme, 2018

1. Short title, extent and commencement:

- (1)The Scheme shall be called "Rajasthan Witness Protection Scheme, 2017".
- (2)It shall extend to the whole of the State of Rajasthan.
- (3)It shall come into force from the date of its publication in the Official Gazette.

2. DEFINITIONS:

- (a) "Code" means the Code of Criminal Procedure, 1973 (Central Act No.2 of 1974);
- (b) "Competent Authority" means Member Secretary of the State Legal Services Authority or the Chairman of a District Legal Services Authority;
- (c) "Concealment of Identity of Witness" means and includes any condition prohibiting publication or revealing, in any manner, directly or indirectly, of the name, address and other and other particulars which may lead to the identification of the witness;
- (d) "District Legal Services Authority" means the District Legal Services Authority constituted under section 9 of the Legal Service Authorities Act, 1987 (Central Act No. 39 of 1987);
- (e) "Family Member" includes parents, spouse, siblings, children, grand children of the witness;
- (f) "Form" means "Witness Protection Application Form" appended to this Scheme;
- (g) "Government" means the State Government of Rajasthan;
- (h) "In Camera Proceedings" means proceedings wherein the public and press are not allowed to participate;

"Live Link" means and include a live television link or other such arrangement whereby a witness, while absent from the courtroom can depose in the matter;

- (j) "Protection Measures" means action taken by the Court taking evidence during the testimony to ensure that witnesses may testify free of intimidation or fear for their and their family members or relatives' life or reputation or property; such measures include, but are not limited to, video conferencing, avoiding face to face contact between witness and the accused and withholding of details of a witness's identity;
- (k) "Relative of witness" means a person connected with the witness by blood, marriage or adoption;
- (l) "Serious Offences" means those offences which are punishable with death or life imprisonment or an imprisonment of duration not less than seven years;

- (m) **"State Legal Services Authority"** means the Authority constituted under section 6 of the Legal Services Authorities Act, 1987 (Central Act No.39 of 1987);
- (n) **"Threat Analysis Report"** means a detailed report prepared and submitted by the Additional Commissioner of Police/Deputy Commissioner of Police/Additional Deputy Commissioner of Police/ Superintendent of Police/ Additional Superintendent of Police/ Deputy Superintendent of Police or a nominee of the preceding officer concerned, who shall not be below the rank of a Sub- Inspector of Police, investigating the case qua the seriousness and credibility of the threat perception to the witness or his family members or relatives;
- (o) **"Witness"** means any person, who possesses information or document about any crime, which is considered material by the competent authority for any criminal proceedings and includes a person who has made a statement has given, or agreed to give evidence in relation to such proceedings;
- (p) **"Witness Protection Application"** means an application moved by a witness or his family members or his relative or his duly engaged counsel or the concerned investigation officer in the form appended to this Scheme before the Competent Authority for seeking a Witness Protection Order;
- (q) **"Witness Protection Cell"** means a Cell of district police headed by the Additional Commissioner of Police/Deputy Commissioner of Police/ Additional Deputy Commissioner of Police/ Superintendent of Police/ Additional Superintendent of Police/ Deputy Superintendent of Police which is assigned the duty to implement the Witness Protection Application;
- (r) **"Witness Protection Fund"** means the fund created for bearing the expenses incurred during the implementation of Witness Protection Order passed by the Competent Authority;
- (s) **"Witness Protection Order"** means an order passed by the Competent Authority detailing the steps to be taken for ensuring the safety of witness from threats to his or his family members or relative life, reputation or property. It also includes interim order, if any passed, during the pendency of Witness Protection Application;

3. Categories of Witness as per Threat Perception:-

- Category 'A'** : Where the threat extends to life of witness or his family members or relatives and their normal way to living is affected for a substantial period, during investigation/trial or even thereafter.
- Category 'B'** : Where the threat extends to safety, reputation or property of the witness or his family members or relatives only during the investigation process or trial.
- Category 'C'** : Where the threat is moderate extends to harassment and intimidation of the witness or his family members' or relatives' reputation or property, during the investigation process.

4. **Witness Protection Fund** :- (1) 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 shall be met.

- (2) The Witness Protection Fund shall comprise the following namely:-
- Budgetary allocation made in the Annual Budget by the Government;
 - Donations/Contribution from International /National/Philanthropist/Charitable Institutions / Organization and individuals.
 - The said Fund shall be operated by the State Legal Services Authorities .

5. **Filling of Application before Competent Authority** :- The application for seeking protection order under this scheme along with supporting documents, if any, may be filed in duplicate, in the prescribed form before the Jurisdiction Competent Authority.

6. **Procedure for processing the application:-** (1) As and when an application is received by the Competent Authority, in the prescribed form, it shall forthwith send a copy of the same along with an order for calling the Threat Analysis Report from the **Additional Commissioner of Police/Deputy Commissioner of Police/Additional Deputy Commissioner/ Superintendent of police/ Additional Superintendent of police/ Deputy superintendent of police** of the District /Unit Investigating the cases. An application submitted before the State Legal Services Authority may be processed by the State Legal Services Authority itself or it may be sent to the concerned District Legal Service Authority.
- (2) Depending upon the urgency in the matter owing to imminent threat, the Competent Authority may pass orders for interim protection of the witness or his family members or relatives.
- (3) The Threat Analysis Report shall be prepared expeditiously by the **Additional Commissioner of Police/Deputy Commissioner of Police/Additional Deputy Commissioner/ Superintendent of police/ Additional Superintendent of police/ Deputy superintendent of police** of the District / Unit Investigating the cases shall categorize the threat perception and shall also submit the suggestive measures for providing adequate protection to the witness or his family or relatives. It shall reach the Competent Authority within one of receipt of the order.
- (4) In the report, **Additional Commissioner of Police/Deputy Commissioner of Police/Additional Deputy Commissioner of Police Superintendent of police/ Additional Superintendent of police/ Deputy superintendent of police** of the District /Unit Investigating the cases shall categorize the threat perception and shall also submit the suggestive measures for providing adequate protection to the witness or his family or relatives.
- (5) While processing the application for witness protection, the competent Authority shall also interact with the witness and/ or his family members/relatives/employers or any other person deemed fit, so as to ascertain the witness protection needs of the witness.
- (6) All the hearings on Witness Protection Application shall be held in-camera in the chamber of the Competent Authority while maintaining full confidentiality.
- (7) The Witness Protection Order shall contain specific details about the nature of threats faced by the witness or his family or relatives to their life, reputation or property apart from analyzing the extent, the person or other person making the threat, have the intent, motive and resources to Implement the threats, it shall also categorize the threat perception apart from suggesting the specific witness protection steps which deserves to be taken in the matter. The application seeking witness protection shall be disposed of within 10 days of its filing.
- (8) The Witness Protection Order passed by the Competent Authority shall be implemented by the Witness Protection Cell. Overall responsibility of implementation of all witness protection orders passed by the Competent Authority shall lie on the **Commissioner/District Superintendent of Police;** However the Witness Protection Order passed by the Competent Authority for change of identity or/and relocation shall be implemented with the coordination of the District Magistrate.
In appropriate cases, the Competent Authority may issue necessary directions to the District Magistrate concerning any of the matter provide for in this Scheme.
- (9) Upon passing of a Witness Protection Order, the Witness Protection Cell shall maintain record of the entire follow up measures, which may be summoned by the Competent Authority as and when occasion.
7. **Types of protection:-** The witness protection measures ordered shall be proportional to the threat and for limited duration. They may include:
- Ensuring that witness and accused do not come face to face during investigation or trial.
 - Monitoring of mail and telephone calls.
 - Arrangement with the telephone company to change the witness's telephone number or assign him or her an unlisted telephone number.
 - Installation of security devices in the witness's home such as security doors, CCTVs, alarms, fencing etc.
 - Concealment of identity of the witness by referring to him/her with the changed name or alphabet or sign.
 - Emergency contact persons for the witness.
 - 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 conveyance at the expenses of witness protection fund for 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 day to day basis without adjournments.
- (n) Any other form of protection measures considered necessary.

8. Monitoring and review:- Once the protection order is passed, the Competent Authority shall monitor its implementation and may review the same as and when necessary. The protection order issued shall also be reviewed every three months in order to avoid misuse of the Scheme by any person.

9. Protection of identity :- (1) During the course of investigation or trial of any serious offence, an application for seeking identity protection may be filed in the prescribed form before the Competent Authority.

(2) Upon receipt of the application, the Competent Authority shall call for the Threat Analysis Report and shall examine the witness or his family members or relatives or any other person it deem fit to ascertain whether there is necessity to pass an identity protection order.

(3) During the course of hearing of the application, the identity of the witness shall not be revealed to any other person, which is likely to lead to the witness identification. The Competent Authority can there after dispose of the application as per material available on record.

(4) Once, an order for concealment of identity of witness is passed by the Competent Authority, it shall be responsibility of Witness Protection Cell to ensure that identity of such witness is fully protected.

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

(6) In a case where the witness, who has been provided protection of identity, voluntarily discloses his identity to the public at large or to the media, the order concerning protection of the identity shall cease to have effect. However, if the protected denies to have voluntarily disclosed his identity, the person or agency responsible for such disclosure of identity shall be liable to action, including penal action.

10. Witnesses to be apprised of the scheme: It shall be mandatory for Investigating Officer/Court to inform each and every witness about the existence of "Witness Protection Scheme" and its salient features.

11. Confidentiality and preservation of records: (1) The Competent Authority, District Magistrate, witness protection cell's officials, SHO, IO and all other concerned officials including Lawyers from both sides shall maintain full confidentiality and shall ensure that under no circumstance, any record, document or information qua the proceedings under this scheme shall be shared with any person in any manner except with the Trial Court/Appellate Court and that to on a written order.

(2) All the records pertaining to proceedings under this scheme shall be preserved till such time the related trial or appeal thereof is pending before a Court of Law. After three years of disposal of the last Court proceedings, the hard copy of the records can be weeded out by the Competent Authority after preserving the scanned soft copies of the same.

By order of the Governor of Rajasthan,
Ramesh Kumar Sharma,
Special Secretary Home to the Government.

Witness Protection Application
under
The Rajasthan Witness Protection Scheme, 2018
(To be filled in duplicate)

Before,

The Member Secretary,
 Rajasthan State Legal Services Authority
 Jaipur.

Or

The Chairman,
 District Legal Service Authority
 District..... (Rajasthan) ,

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

1. Name
2. Age
3. Father's Name
4. Residential Address
5. Is witness desirous of Identity Protection order, if yes, give reasons
6. Name and other details of family Members of the witness who are receiving or perceiving threats
7. Is witness desirous of relocation, If yes, please suggest the place and manner of it.

2. Particulars of Criminal matter:-

1. FIR No.:-
2. Under Section:-
3. Police Station:-
4. District:-
5. D.D. No. (In case FIR not yet registered)

3. Particulars of the Accused:-

1. Name:-
2. Address:-
4. Name & other particulars of the person giving/suspected of giving threats:-
5. Nature of threat perception.
 Please give brief details of threat Received or perceived in the matter
 With specific date, place, mode and word used:-
6. Nature of witness protection Measures prayed by/for the witness:-
7. Details of Interim urgent Witness Protection needs, if required.

Witness shall file a separate undertaking under his/her signature that he/she shall fully co-operate with the Competent Authority and Divisional Magistrate /Witness Protection Cell.

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

Date:

Place:

(Full Name with signature)

Government Central Press, Jaipur.