

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**CWP No. 8218 of 2026****Reserved on: 15.9.2026****Date of Decision: 25.9.2026**

Karan**...Petitioner.****Versus****State of H.P. ors.****...Respondents.**

Coram***Hon'ble Mr Justice Rakesh Kainthla, Judge.******Whether approved for reporting?¹ No.***

For the Petitioner	:	Ms Anju Mehta, Advocate, vice Mr Karan Kapoor, Advocate.
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For the Respondent/State	:	Mr Jitender Sharma, Additional Advocate General.
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Rakesh Kainthla, Judge

The present petition has been filed seeking a direction to the respondents to release the petitioner on parole for 28 days on such terms and conditions as the Court may impose.

2. It has been asserted that the petitioner was convicted for the commission of an offence punishable under Section 376 of the Indian Penal Code (IPC) and was sentenced to undergo

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

rigorous imprisonment for 10 years, pay a fine of ₹25,000/-, and in default of payment of fine, to undergo imprisonment for three months by the learned Additional Sessions Judge, Fast Track Special Court (Rape/POCSO), Shimla.

3. The petitioner has completed more than 08 years, 01 month, and 20 days inside the jail. He applied for parole under the provisions of the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968 ("Prisoners Act") and the Rules framed thereunder to meet his family members.

4. The respondents sought the opinion from the district authority; however, no opinion was provided till the filing of the petition. Hence, the present petition has been filed seeking the directions mentioned above.

5. The petition is opposed by filing a reply submitting that the petitioner is governed by the provisions of the Prisoners Act and the Rules framed thereunder.

6. The petitioner had applied for parole on 29.12.2025. His request was forwarded to the District Magistrate and Superintendent of Police, Solan, for their recommendations/verification. The report was found to be non-specific; hence,

another letter was written to the concerned District Magistrate to provide a clear and specific recommendation on 10.6.2026. However, no recommendation was received. Therefore, no decision could be taken in the matter. Hence, it was prayed that the present petition be dismissed.

7. Subsequently, instructions dated 15.9.2026 were filed, in which it was mentioned that the Superintendent of Police, Solan, found that the petitioner had committed a heinous offence of rape at Boileauganj, and two other criminal cases were also pending against him. There is an apprehension that he would indulge in criminal activities, and the Superintendent of Police did not recommend the grant of parole to the petitioner.

8. The Additional Deputy Commissioner forwarded the report of the Superintendent of Police to the Director General of Police with the remarks that the grant of parole was not recommended. Again, the reports were sought, and it was stated that the petitioner is involved in the commission of a heinous offence and the grant of parole to the petitioner would create fear and resentment among the local population.

9. I have heard Ms Anju Mehta, learned vice counsel representing the petitioner, and Mr Jitender Sharma, learned Additional Advocate General for the respondents/State.

10. Ms Anju Mehta, learned Vice Counsel representing the petitioner, submitted that the respondents have not taken a decision even though a specific time period has been provided for deciding the application under the Prison Manual. The mere fact that the petitioner is involved in the commission of a heinous offence is no ground to deny parole to a person. Therefore, she prayed that the present petition be allowed and the petitioner be released on parole.

11. Mr Jitender Sharma, learned Additional Advocate General for the respondents/State, submitted that the petitioner is involved in the commission of a heinous offence, two other FIRs are pending against him, and the petitioner would indulge in the commission of a serious crime in case of his release on parole. Therefore, he prayed that the present petition be dismissed.

12. I have considered the submissions made at the Bar and have gone through the records carefully.

13. A perusal of the reply and the instructions show that the Superintendent of Police, Solan, stated that the petitioner was involved in the commission of a heinous offence and he is likely to commit an offence in case of his release on parole. The District Magistrate had not recommended the grant of parole in view of this report.

14. It was submitted that the District Magistrate had not recommended the grant/refusal of parole, and in the absence of such a recommendation, no action could be taken in the matter. A reference was made to Rule 3 (2) of the Prisoners' Rules in this regard. This submission cannot be accepted. Rule 3 (2) of the Prisoners Rules, 1969 reads as under: -

“3. (2) The Superintendent of Jail shall forward the application of a prisoner within 24 hours of its receipt, along with his report, to the District Magistrate of the district to which the convict belongs. The District Magistrate, before making any recommendations, shall, with the consultation of the Superintendent of Police, verify the facts and grounds on which temporary release has been requested and shall also give their opinion whether the temporary release on parole/furlough is opposed on the grounds of the prisoner's presence being dangerous to the security of the State or prejudicial to the maintenance of Public Order. The District Magistrate shall complete the process of consultation with the Superintendent of Police and forward his recommendations within one week to the Inspector General of Prisons (Releasing Authority), together with

the report of the Superintendent Jail, who shall decide the parole/ furlough case ordinarily within three days from the date of receipt of the recommendations of the District Magistrate.

In the event of the serious illness of a close relation, i.e. father, mother, brother, sister, spouse or child of the prisoner, the application should be processed more expeditiously. However, in the event of the death of a close relation, i.e. father, mother, brother, sister, spouse or child of the prisoner, the Superintendent of the Jail shall also be the competent authority to release a prisoner on parole for a period not exceeding fifteen days.

The Superintendent of the Jail should release a prisoner on parole immediately on receipt of a death certificate, provided he satisfies himself independently within a reasonable time about the genuineness of the certificate. To satisfy himself, he will approach the concerned Police Station by wireless and verify the truth of the death and the exact relationship of the prisoner with the deceased to ascertain the nearness of the relationship.

The Superintendent of Jail shall also take into consideration the prisoner's past criminal history and behaviour in the prison since admission as recorded in his case file, and the likelihood of his not abusing the concession of parole, if granted.

The Superintendent of Jail shall, without fail, submit the case file of the prisoner to whom parole is thus granted to the Inspector General of Prisons, enabling him to ensure that the Superintendent has used proper discretion in effecting the release."

15. A careful perusal of the Rule shows that it does not provide that the report of the District Magistrate is binding upon the releasing authority. Had it been so, the rule would have specifically stated so. It only provides that the releasing

authority must consider the recommendations provided by the District Agency, while simultaneously exercising its independent judgment. Accepting the submission made on behalf of the Releasing Authority would elevate the District Magistrate to the position of the final authority, thereby relinquishing the decision-making power vested in the Releasing Authority to the District Magistrate. Consequently, such an interpretation cannot be accepted.

16. The Releasing Authority's jurisdiction to determine the release or furlough of an inmate stems from its responsibility to consider not only the report of the District Magistrate and Superintendent of Police, but also the report submitted by the Superintendent of Jail. As the Inspector General of Prisoners, the Releasing Authority possesses the unique knowledge and expertise to assess the prevailing conditions within the jail and make an informed decision regarding the appropriateness of parole. Therefore, the assertion that the Releasing Authority lacks the independence to make such a decision is untenable.

17. Para 19.18 of the Prison Manual deals with the procedure of release of prisoners and reads as under: -

“19.18 The Superintendent of Jail shall forward the application so received to the Superintendent of police of the concerned district within 3 days of receipt of the application, along with the recommendation of the Superintendent of Prison for his report through the District Magistrate concerned. The Superintendent of Police shall send his report to the competent authority through the District Magistrate within 14 days from the date of receipt of the reference of the competent authority. The District Magistrate is allowed 3 days to forward the report of the Superintendent of Police, so received, to the competent authority. In case the police disagree with the proposed release of a prisoner on leave, reasons for such disagreement should be specified. The competent authority is allowed a period of 7 days to decide on the application from the date of receipt of the report of the District Magistrate was received by him.”

18. It is apparent from the Rules and the Prison Manual that the police have to give the reasons for disagreement in case it disagrees with the proposed release of the prisoner. In the present case, the police had mentioned in the report submitted by them that the petitioner was involved in the commission of a heinous offence and other FIRs have been registered against him. Therefore, the police have provided the reasons for disagreement. The District Magistrate had also mentioned in his report that the parole should not be granted to the petitioner. Therefore, the Police and the District Magistrate had submitted their opinions to the Releasing Authority, and it was for the Releasing Authority to take action in the matter.

19. Therefore, the releasing authority has failed to take action in the present matter despite the lapse of more than nine months from the date of application, and the grievance of the petitioner is justified that his application is not being considered as per the law.

20. In the present case, the respondents have failed to adhere to the timeline provided under the Prisoners Act and the Rules. Therefore, the present petition is allowed, and the respondents are directed to decide the petitioners' application for the grant of parole within a period of 2 weeks.

21. The observations made hereinbefore shall remain confined to the disposal of the present petition and will not influence the Releasing Authority in any manner while deciding the application for release.

22. The present petition stands disposed of, and so are the pending miscellaneous applications, if any.

(Rakesh Kainthla)
Judge

25th September, 2026
(Chander)