

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr.) No.3 of 2016**

Uttam Vishvas @ Sonu S/o Shri Kishor Vishvas, Prisoner No.: 1762, Presently Under Going Correctional Imprisonment In Central Jail Durg, Civil & Revenue Distt. Durg (Chhattisgarh), R/o Bangali Colony, Near Mahesh Bakery, Ward No. 36, New Khursipar, Bhilai, Civil & Revenue Distt. Durg (Chhattisgarh) Represented Through: Ajit Vishvas, S/o Dilip Vishvas, Aged About 36 Years, R/o Bangali Colony, Ward No. 36, New Khursipar, P.S. Khursipar, Bhilai, Civil & Revenue Distt. Durg, (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Home (Jail), Mahanadi Bhawan, New Raipur, P.S. Rakhi, Civil And Revenue District Raipur, (Chhattisgarh)
2. The District Magistrate, Durg, Civil And Revenue District Durg, (Chhattisgarh)
3. The Jail Superintendent, Central Jail, Durg, Civil & Revenue Distt. Durg, (Chhattisgarh)
4. The Senior Superintendent Of Police, Durg, Civil & Revenue Distt. Durg, (Chhattisgarh)
5. Joint Collector, Durg, Civil & Revenue Distt. Durg, (Chhattisgarh)

-----Respondents

For Petitioner:	Shri Amiyakant Tiwari, Advocate.
For Respondents/State:	Smt M. Asha, Panel Lawyer.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

22.8.2016

1. The Petitioner in the instant case is the accused person for an offence under Section 302 IPC and also under Sections 25 and 27 of the Arms Act and has been sentenced to undergo RI for life for the said offences vide judgment dated 28.2.2007 passed by the 4th Additional Sessions Judge, Durg.
2. The Petitioner is serving his sentence at Central Jail, Durg and has

remained in jail for a period of about more than 14 years. The Petitioner had moved an application for releasing him temporarily from jail under the provisions of Rule 6 of MP/CG Prisoner Leave Rules, 1989 (for short the 'Rules of 1989'). The Superintendent of Police, Durg, vide his report dated 5.10.2015 had recommended the case of the Petitioner for his release from jail taking into consideration the statement of the husband of the deceased as well as the local counsellors of Ward No.36. However, subsequently, the son-in-law of the deceased namely Barendra Nath Mukherjee had objected that in the event of the release of the Petitioner on temporary leave, he and his family members will be at threat and therefore, the same should not be allowed by the jail authorities. On the basis of the said objection by the son-in-law of Barendra Nath Mukherjee, the Joint Collector, vide the impugned order dated 13.10.2015, had disallowed the grant of temporary leave to the Petitioner.

3. Learned Counsel for the Petitioner had now preferred an application intimating for an urgent hearing which has been allowed and has brought on record the fact that the said objector Barendra Nath Mukherjee has since expired on 27.5.2016 and as such the alleged threat on the basis of which the application for temporary leave was rejected does not survive any further and therefore, the Petitioner's case can be reconsidered by the authorities concerned for grant of temporary leave particularly, taking note of the fact that he has remained in jail continuously for a period of more than 14 years.

4. Learned State Counsel on due verification of the said fact, does not oppose the same.

5. Taking into consideration the subsequent developments which have been brought on record and which has not been disputed by the State

Counsel, in the opinion of this Court, it is a fit case where the impugned order in the instant case, deserves to be and is accordingly quashed and the matter is remitted back to the competent authority for reconsidering the application for grant of leave to Petitioner under the Rules of 1989 for reconsidering the case of the Petitioner for grant of temporary leave.

6. In view of above, the present Petition is allowed and the impugned order Annexure P-1 dated 13.10.2015 stands quashed. It is for the authorities concerned to pass a fresh order, as expeditiously as possible, taking into consideration all the relevant facts and circumstances of the case including the fact that the earlier objector Barendra Nath Mukherjee has since expired.

7. With the aforesaid observation, the instant Petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
JUDGE