

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 303 of 2017**

Jitendra Kumar S/o Shri Ganesh Aadil, Aged About 32 Years R/o Village Buchwakapa (Wrongly Mentioned As Buchwapara In P 1 & P 2) Police Station Jarhagaon, District Mungeli, Chhattisgarh. Through Amardas Aadil, S/o Shri Ganesh Aadil, Aged About 25 Years, R/o Village Buchwakapa, Police Station City Jarhagaon, District Mungeli, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through Its Principal Secretary, Department Of Home (Jail) Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, Chhattisgarh.
2. The Jail And Correctional Services Chhattisgarh, The Director General Prisons, Jail Road Raipur, District Raipur Chhattisgarh.
3. The Jail Superintendent Central Jail Bilaspur, District Bilaspur, Chhattisgarh.
4. The District Magistrate, Mungeli, District Mungeli, Chhattisgarh.
5. The Supreintendent Of Police Mungeli, District Mungeli, Chhattisgarh.

---- Respondents

For the Petitioner : Shri Sunil Pillai, Advocate.

For the Respondents/ State : Shri Anil S. Pandey, Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order on Board****25.08.2017**

Heard.

1. The petitioner has filed this petition under Article 226 of the Constitution of India seeking issuance of a direction to the respondent authorities to release the petitioner on leave in accordance with the provisions of the C.G. Prisoner Leave Rules, 1989 (for short 'the Rules, 1989')
2. It is submitted that petitioner is a convict and is undergoing sentence

of life imprisonment in Central Jail, Bilaspur. He in custody since, 2012. The petitioner moved an application under Section 6 of the Rules, 1989 for releasing him on leave, however, the said application has been rejected by respondent No.4 without assigning any reason only on the basis of the reports submitted by Superintendent of Police, Mungeli. Hence, the impugned order passed in an arbitrary and mechanical manner is liable to be set aside. Hence this petition.

3. Learned counsel for the petitioner has placed reliance on the order passed by the Coordinate Bench of this Court dated 17.08.2015, passed in W.P.(Cr.) No.207/2014 (Virendra Kumar Sinha Vs. State of Chhattisgarh), in which after coming to conclusion that the District Magistrate has passed the order arbitrarily in contravention for the provision of Rule 6 of the Rules, 1989 the order was set aside and the District Magistrate was directed to issue necessary release orders granting leave to the petitioner for the period applied for within 15 days from the date of receipt of the order. It is submitted that despite the orders passed by this Court, respondents acted mechanically in considering and deciding the leave application of prisoner. Hence, a specific direction be made in this respect in the interest of justice.
4. Learned counsel for the State submits that if the petition is disposed of with certain directions then the State has nothing to oppose.
5. Heard learned counsel for the parties and perused the impugned orders.
6. The reason assigned by the respondent No.4 in the order dated 8.5.2017 (Annexure P-1) for rejecting the petitioner's application is that the Superintendent of Police, Mungeli has not recommended for release of the petitioner on leave. The impugned order is contrary to

the provisions of the Rules, 1989 in which the District Magistrate is required to record the satisfaction that the release of prisoner would be detrimental to public interest or that his release on the leave is threat or danger to the public safety. No such finding has been recorded given by the respondent No.4 while rejecting the petitioner's application for releasing him on leave.

7. This Court while dealing almost identical issue in WPCR No,29/2016, parties being Rakesh Shende v. State of CG, has held in categorical terms vide order dated 18.11.2016 that an application for leave by a prisoner, should not be decided in casual and perfunctory manner and, further, directions have also been issued to be complied with before disposing of the application for release on leave.
8. In the instant case, it appears that petitioner has never been released on leave though he has become entitled to be released as per provisions of Rule 6 of the Rules, 1989. As observed, the grounds mentioned in the order passed by the respondent No.4, there appears to be mindset which is being followed by the respondent No.4 without giving consideration to the principles laid down in the rules provided in this respect.
9. For the foregoing reasons, this petition is allowed. The order dated 08.05.2017 passed by respondent No.4 is set-aside. The respondent No.4 is directed to consider and grant leave in favour of the petitioner for the period applied for in accordance with law. It is also directed that the orders will be passed by the respondent No.4 as early as possible, preferably within a period of 15 days from the date of passing of this order.

Sd/-

(Rajendra Chandra Singh Samant)
Judge