

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 124 of 2017

- Ravishankar Tandon S/o Shri Shivkumar Tandon Aged About 27 Years R/o Village- Odadabri, Police Station- Kunda, Tahsil- Pandariya, District- Kabirdham, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through- The Secretary, Jail Department, Mahanadi Bhawan, Mantralaya, Raipur, Chhattisgarh
2. The Director General Of Prisons And Correctional Services Chhattisgarh, Head Quarter- Prisons And Correctional Services Chhattisgarh, Raipur, Chhattisgarh
3. The Collector-Cum-District Magistrate, Kabirdham, Chhattisgarh
4. The Executive Magistrate, Kabirdham, Chhattisgarh
5. The Superintendent Of Police Kabirdham, Distyric- Kabirdham, Chhattisgarh
6. The Jail Superintendent, Central Jail, Bilaspur, Chhattisgarh
7. The Station House Officer, Police Station- Kunda, District- Kabirdham, Chhattisgarh

---- Respondent

For Petitioner	:	Shri Rishi Rahul Soni, Advocate.
For State/Respondents	:	Shri Ashish Shukla, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

27/07/2017

1. Heard.
2. It is submitted by counsel for the petitioner that petitioner is a convict undergoing sentence of life imprisonment and detained in Central Jail, Bilaspur since 4.12.2011. After completion of requisite detention period and on the basis of entitlement under C.G. Prisoner Leave Rules, 1989, petitioner moved an application for grant of leave before District Magistrate-respondent No.3,

Kabirdham. The respondent No.3 has decided that the application of petitioner in a very casual and cursory manner and rejected the application vide order dated 6.10.2016 (**Annexure-P/1**).

3. It is submitted that the prayer for leave made for petitioner has not been considered by respondent No.3 in accordance with the provisions under Rule 6 of M.P./C.G. Prisoner Leave Rule, 1989 merely on the concern expressed by the Superintendent of Police that if the prisoner is released on leave, he may abscond or there may be threat to the family members of the victim, is not a ground on which the application should have been rejected as there are provisions in the Rule, 1989 to impose conditions on the prisoner for his conduct during the period of leave. Hence, prayed that petition be allowed and directions may be issued for release of petitioner on leave under Rule, 1989.
4. Learned counsel for the State has submitted that if the matter is disposed of with a suitable direction then State has no objection.
5. Perused the material on record.
6. The report submitted by Superintendent of Police, Kabirdham, District-Kabirdham mentions that the petitioner/prisoner had a good record, he was a first offender and he has no criminal history, but it is mentioned that if, he is released on leave he may abscond or there may be threat to the family members of the victim. Hence, for these reasons the recommendation was unsupportive. Respondent No.3 has simply considered and accepted the report and opinion of the Superintendent of Police and passed the order impugned dated 6.10.2016 without recording any findings as to satisfaction that the release of petitioner on leave would be detrimental in public interest or is not fraught with public safety which is an essential finding to be giving while deciding application for leave.
7. This Court has clearly laid down in the order dated 18.11.2016 passed in WP(Cr) No.29 of 2016 Rakesh Shende Vs. State of Chhattisgarh that an application for leave by a prisoner, should not be decided in casual and perfunctory manner and, further, directions have also been issued which have to be complied with before disposing the application of leave. Therefore, considering all these facts, it seems appropriate to dispose of this petition, at the motion stage. Hence, this petition is allowed. The order dated 6.10.2016 passed by respondent No.4, is set aside.

8. Respondents are directed to reconsider the application of petitioner in the light of direction, issued in the WP(Cr.) No.192 of 2017 and also in compliance with the direction, issued in Rakesh Shendre (supra) case.
9. Accordingly, the petition is allowed at motion stage.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE

Nisha.