

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**W.P.(CR.) No. 260 of 2017**

Gulab Singh Alias Gulab Chand, S/o. Shri Lekhram, Aged About 30 Years, R/o. Village Putkikhurdh, P. S. Pandariya, Tehsil Pandariya, District Kabirdham (Chhattisgarh).

Through Manoj Kumar Lahre, S/o Gangu Ram Lahare, Aged About 28 Years, R/o. Mini Mata Nagar, Talapara, P. S. Tarbahar, District Bilaspur (Chhattisgarh).

---- Petitioner

**Versus**

1. State Of Chhattisgarh, Through : Its Principal Secretary, Department Of Home (Jail) Mahanadi Bhavan, 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 Collector, Kabirdham, District Kabirdham (Chhattisgarh).
5. The Superintendent Of Police, Kabirdham, District Kabirdham (Chhattisgarh).

-----Respondents

---

|                      |                                     |
|----------------------|-------------------------------------|
| For Petitioner       | : Mr. Sunil Pillai, Advocate        |
| For Respondent/State | : Mr. Neeraj Sharma, Govt. Advocate |

---

**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board**

**03/08/2017**

Heard.

1. This petition under Article 226 of the Constitution of India has been brought seeking relief for issuance of directions to release the petitioner on leave in accordance with the provisions of C.G. Prisoner Leave Rules, 1989.
2. It is submitted by the counsel for petitioner that petitioner is convict and undergoing sentence of life imprisonment in Central Jail, Bilaspur. He

is in jail since 2007 and has never been released on leave. Petitioner for the first time moved an application for leave under C.G. Prisoner's Leave Rules, 1989 before the District Magistrate/respondent No.4, which was rejected vide order dated 14.07.2015 (Annexure P/2). Petitioner filed Writ Petition (Cr.) No.01/2016, which was decided on 10.01.2017 by the Coordinate Bench of this Court, in which the petition was allowed and the order of the respondent No.4 was set-aside with direction to reconsider on the application of the petitioner and pass fresh order. Respondent No.4 has after consultation with Superintendent of Police, Kabirdham has again denied the prayer made by the petitioner and communication was sent vide Annexure P/4 dated 14.03.2017 to Under Secretary, C.G. Government, Department of Jail.

3. It is submitted by the counsel for the petitioner that respondent No.4 is sitting with mindset to reject the prayer of the petitioner without any reasonable and cogent ground and without giving any reasoning in accordance with rule 6 of the C.G. Prisoner's Leave Rules, 1989. Hence prayed that specific directions may be issued for petitioner to be released on leave.
4. Counsel for the State has submitted that if this petition is disposed of with suitable directions then he has nothing to oppose.
5. Heard the arguments and perused all the documents and the material placed on record.
6. Subsequent to the order dated 10.01.2017 passed in W.P.(Cr.) No.1/2016, a report was called from Superintendent of Police, Kabirdham, in which he expressed opinion that petitioner if released on leave may break leave and abscond. Agreeing with this opinion, the

application of the petitioner was rejected again.

7. The requirement for consideration of application for leave, the Rules of 1989, have not been complied with. It appears on perusal of the communication made to the Under Secretary, C.G. Government, Department of Jail dated 14.03.2017 (Annexure P/4), there is no finding recorded that the release of prisoner would be detrimental to public interest or would be detrimental for the public safety. The report of Superintendent of Police is based on just conjecture and surmises.
8. 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.
9. 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.
10. 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 Prisoner Leave Rule, 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.

11. Considering the submission made, as per report submitted by Superintendent of Police, Kabirdham there is nothing to hold that the release of the petitioner shall be detrimental to public interest or is not fraught with danger to public safety. Hence under this circumstances, nothing is left except to pass an order of grant of leave. Hence the order of rejection passed by the respondent No.4 is again set-aside and it is directed that necessary order for release of the petitioner on leave as prayed for may be passed as soon as possible preferably within a period of 15 days from the receipt of this order. Condition for release on leave may also be imposed.
12. Accordingly, the petition stands disposed of.

**Sd/-**  
**(Rajendra Chandra Singh Samant)**  
Judge