

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 407 of 2017**

- Bhukhanlal S/o Narsingh R/o Village Sindhauri, Post Bawankera, Police Station Patewa, District Mahasamund, 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 Raipur, District Raipur, Chhattisgarh.
4. The District Magistrate, Raipur, District Raipur, Chhattisgarh.
5. The Superintendent Of Police, Raipur, District Raipur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri N. Naha Roy, Advocate.
For State/Respondents	:	Shri Anil Pandey, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****09/10/2017**

Heard.

1. It is submitted by learned counsel for the petitioner that petitioner is in jail in connection with a conviction against him and is undergoing life imprisonment sentence since 22.01.2015. After two years of continuous imprisonment, the petitioner became entitled for benefit of leave under CG Prisoner Leave Rules, 1989. Petitioner preferred an application for grant of leave vide memo dated 19.7.2017 respondent No.4 has rejected the prayer made by the petitioner only for the reason that without there being any specific and cogent reason, he cannot be released on leave.
2. It is submitted that the order has been passed in a mechanical and casual

manner, which is contrary to the provision under Rule 6 of the Rules of 1989.

3. Learned counsel for the petitioner has opposed the petition and submits that if the petition is disposed of with a suitable direction in that case State do not have any objection.
4. Perusing the memo dated 19.7.2017 (**Annexure P-1**), it is apparent that an inquiry was made by the police-officer concerned in the village where the petitioner resides. None of the persons including the family members of the victim have raised any objection to his release, even then the Superintendent of Police opined in his report that the petitioner should not be released without there being any specific and cogent reason for his release on leave, to which respondent No.4 agreed and has rejected the prayer made by the petitioner.
5. The requirement for consideration of application for leave the Rules of 1989, have not been complied with. It appears on perusal of the order of respondent No.4 dated 19.7.2017, 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.
6. This Court has clearly laid down in the order dated 18.11.2016 passed in WP(Cr) No.29 of 2017 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 19.7.2017 passed by respondent No.4, is set aside.
7. 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 Shende (supra) case.
8. Considering the submission made, without any interference into the authority of the District Magistrate(respondent No.4), it is directed that if, there are no ground to specifically with hold, then order be passed by respondent No.4 for grant of leave to the petitioner for the period of leave preferably within 15 days from the date of receipt of this order.

9. Accordingly, the petition stands disposed of.

Sd/-
(Rajendra Chandra Singh Samant)
JUDGE

Nisha.