

HIGH COURT OF CHHATTISGARH, BILASPUR**WP (Cr) No.119 of 2017**

Dinesh @ Bhuru, S/o Shri Mahettara Ram, aged about 38 years, R/o Village-Dhobghatti, P.O.-Baigakapa, Thana-Lormi, Distt.Mungeli (CG) Through: Narayan Kashyap, S/o Shri Mahettara Ram, aged about 34 years, R/o. Village-Dhobghatti, P.O.-Baigakapa, Thana-Lormi, Dist.Mungeli (CG)

---Petitioner**Versus**

- 1.** State of Chhattisgarh, Through: its Principle Secretary, Department of Home (Jail), Mahanadi Bhavan, Mantralaya, Naya Raipur, District-Raipur (CG)
- 2.** The Jail and Correctional Services Chhattisgarh, The Director General Prisons, Jail Road Raipur, District-Raipur (CG)
- 3.** The Jail Superintendent Central Jail Bilaspur, District-Bilaspur (CG)
- 4.** The District Magistrate, Mungeli, District Mungeli (CG)
- 5.** The Superintendent of Police, Mungeli, District Mungeli (CG)

---Respondents

For Petitioner	:	Mr.Sunil Pillai, Advocate
For Respondents	:	Mr.Gary Mukhopadhyay, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****06/04/2017**

- 1.** Application for grant of leave under the Chhattisgarh Prisoner's Leave Rules, 1989 has been rejected by the Additional Collector and Additional District Magistrate, Mungeli by order dated 3.2.2017 (Annexure P/2) holding that his release is likely to cause breach of peace.
- 2.** Learned counsel for the petitioner would submit that the order passed by the Additional Collector cum Additional

District Magistrate, Mungeli is totally unsustainable in law relying upon the decision of this Court passed in Writ Petition (Cr.) No.29 of 2016 on 18.11.2016 (Rakesh Shende Vs. State of Chhattisgarh and others) in which this Court observed as under:-

“21. It is important to mention that power to grant parole is a purely administrative decision, however, the person who has been entrusted to grant leave (parole) is the District Magistrate in the instant case. The executive must exercise the discretion vested in it judiciously and not arbitrarily and keeping in mind the objectives of parole and also taking into consideration that regardless of the crime a man may commit, he still is a human being and has human feelings, particularly keeping the object of parole as highlighted by the Supreme Court in Inder Singh (supra) and keeping in view that the nature and length of sentence or magnitude of the crime committed by the prisoners may not be relevant for the purpose of grant of parole and further keeping in view that parole was introduced to encourage responsible behaviour in rehabilitating the prisoners and at the same time to provide them an opportunity to reform themselves into a better human being and also to provide them with an opportunity to maintain their social ties and allow the prisoners to develop a positive attitude, self-confidence and interest in life.

22.As noticed herein-above, the power of parole has been conferred by the rules to the District Magistrate and the post of District Magistrate is manned in the State of Chhattisgarh by a member of Indian Administrative Service. Therefore, the District Magistrate is required to exercise the power to consider the application for grant of parole. He has to take into consideration the object and need to grant parole to the convicted prisoners by applying their mind and come to a conclusion judiciously. The order passed by the District Magistrate in the instant case would show the complete non-application of mind, as by a cyclostyle order only name and number of prisoner has been

inserted and it has been signed by the Additional District Magistrate. The manner in which the order has been passed by the District Magistrate in a mechanical manner is suggestive of betrayal of the confidence which the rule making authority reposed in the District Magistrate in conferring upon him to exercise the power to grant parole.

25. Consequently, I am of the considered opinion that the order passed by the Additional District Magistrate, Raipur (Annexure P-3) deserves to be quashed in exercise of jurisdiction of this Court under Article 226 of the Constitution of India and is accordingly quashed. It is directed that the respondents shall consider the case of the petitioner to grant him the privilege of release / parole, in accordance with law indicated herein-above within forty days from the date of production of a copy of this order."

3. Consequently, I am of the considered opinion that the order dated 3.2.2017 (Annexure P/2) passed by the Additional Collector and Additional District Magistrate, Mungeli deserves to be quashed in exercise of jurisdiction of this Court under Article 226 of the Constitution of India and is accordingly quashed. It is directed that the respondents shall consider the case of the petitioner to grant him the privilege of release/parole, in accordance with law indicated herein-above within forty days from the date of production of a copy of this order

4. The writ petition is disposed off with the aforesaid direction.

Sd/-

**(Sanjay K. Agrawal)
JUDGE**

B/-

