

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
WPCR No. 174 of 2017

1. Krishna Kumar Nishad @ Bulthu S/o Shri Mahettar Nishad, Aged About 40 Years R/o Village Saradih, (A Dependant Village Of Gram Panchayat Mudpar Chhote) Police Station & Tahsil Sarangarh, District Raigarh (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 Raigarh (Chhattisgarh).
4. The Upper Collector, Raigarh (Chhattisgarh).
5. The Senior Superintendent Of Police Raigarh, District Raigarh (Chhattisgarh).
6. The Superintendent Of Police, Raigarh, District Raigarh (Chhattisgarh).
7. The Jail Superintendent, Central Jail Bilaspur (Chhattisgarh)
8. The Station House Officer, Police Station Sarangarh, District Raigarh (Chhattisgarh)

---- Respondents

For Petitioner	:	Mr.R.R.Soni, Advocate
For Respondents	:	Mr.Gary Mukhopadhay, Dy.G.A.

Ms Shammi Abidi, Collector, Raigarh is present before this Court.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

20/06/2017

1. The petitioner's wife made a letter addressed to the Chief Justice of this Court claiming parole, [which was dismissed by the Additional Collector, Raigarh on 30.5.2016], which was registered as WP (Cr) No.282 of 2016 and decided by this Court on 20.12.2016 and it has been directed that application of the petitioner's wife be placed before the District Magistrate and the District Magistrate in consultation

with the Superintendent of Police shall pass fresh order within a period of 15 days from the date of receipt of copy of that order. The order was placed before the District Magistrate on 21.3.2017 and again the District Magistrate, Raigarh by its impugned order summarily rejected the application, against which, this writ petition has been filed.

2. This Court being dissatisfied with the order passed by the District Magistrate on 21.3.2017 directed personal presence of the District Magistrate, Raigarh. Ms Shammi Abidi, District Magistrate, Raigarh is present in compliance of the Court's order. She submits that application has not been considered properly and she will consider afresh in the light of the decisions of this court in WP (Cr) No.282 of 2016 (In Reference of Court on Its Own Motion. Smt. Kartik Mati Vs. State of Chhattisgarh), decided on 20.12.2016 and in WP (Cr) No.29 of 2016 (Rakesh Shende Vs. State of Chhattisgarh and others), decided on 18.11.2016. Therefore, opportunity be granted to consider the said application for grant of parole afresh.

3. I have heard learned counsel for the parties and considered their rival submissions made hereinabove.

4. This Court by order dated 20.12.2016 in WP (Cr) No.282 of 2016 has clearly held the principles of law on which the application for grant of parole has to be considered by the District Magistrate afresh in first round of litigation as well as

in **Rakesh Shende** (supra) has held the principles on which application for grant of parole has to be considered, but it is unfortunate that application has not been considered in the light of the principles of law laid down by this Court in the aforesaid cases and order has been passed simply in one line rejecting the said application.

5. Since the application has not been considered in right prospective and in the light of the principles of law laid down by this Court in In Reference of Court on Its Own Motion.Smt.Kartik Mati (supra) and in Rakesh Shende (supra), the impugned order is set aside. The said application is restored to the original file of the District Magistrate, Raigarh for fresh consideration and disposal in accordance with law within a period of 15 days from the date of receipt of copy of this order taking into material on record including the recommendation of the SHO dated 26.4.2016.

6. The writ petition is allowed to the extent indicated hereinabove. A copy of this order be sent to the Chief Secretary, State of Chhattisgarh, Raipur for onwards circulation to the District Magistrates to comply with the orders passed by this Court in In Reference of Court on Its Own Motion.Smt. Kartik Mati (supra) and in Rakesh Shende (supra).

Sd/-

(Sanjay K. Agrawal)
JUDGE