

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr) No.178 of 2017**

Jivardhan Sahu, S/o Shri Thabiro Sahu, aged about 30 years,
R/o Village-Gerra, Tahsil-Saraipali, District-Mahasamund (CG)

---- Petitioner

Versus

1. State Of Chhattisgarh Through the Secretary of Department of Home, Mahanadi Bhawan, Naya Raipur (CG)
2. The District Magistrate, District Mahasamund (CG)
3. The Superintendent of Police, District Mahasamund (CG)
4. The Superintendent, Central Jail Raipur, District Raipur (CG)

---- Respondents

For Petitioner	:	Mr.Gurudev I. Sharan, Advocate
For Respondents	:	Mr.Gary Mukhopadhay, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

23/06/2017

1. Learned counsel for the petitioner would submit that application of brother of the petitioner for grant of leave has not been decided by the Sanctioning Authority and only by Annexure P/4 it has been recommended to the Government, whereas the Sanctioning Authority under Rule 6 of the Chhattisgarh Prisoner's Leave Rules, 1989 (hereinafter called as 'Rules of 1989') is the District Magistrate, therefore, the impugned order deserves to be set aside.
2. On the other hand, learned State Counsel would support the impugned order.
3. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also gone through

the record with utmost circumspection.

4. By virtue of Rule 6 of the Rules of 1989, power and jurisdiction have been conferred to the District Magistrate to consider the application for grant of leave, whereas the District Magistrate has made a recommendation addressing the letter to the Superintendent, Central Jail, Raipur, which cannot be approved by this Court.
5. Since the District Magistrate is an appropriate authority to consider the application for grant of leave, he is directed to consider the said application in accordance with the decision of this Court in WP (Cr.) No.29 of 2016 (**Rakesh Shende Vs. State of Chhattisgarh and others**), decided on 18.11.2016 as early as possible preferably within a period of 30 days from the date of receipt of certified copy of this order along with copy of judgment of **Rakesh Shende** (supra).
6. With the aforesaid direction, the writ petition finally stands disposed of. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)

Judge

B/-