

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No.125 of 2016

Hariram Sahu, S/o Late Chintaram Sahu, aged about 52 years,
R/o Village Sakri, P.S. Palarai, District Baloda Bazar C.G.)
Through Hemlal Sahu, S/o Khubi Ram Sahu, aged about 27
years, R/o Village Borsi, Post Kapasda, P.S. Kumhari, District
Durg (C.G.)

---- Petitioner
(In Jail)

Versus

1. State of Chhattisgarh, Through its Principal Secretary,
Department of Home (Jail), Mahanadi Bhavan, Mantralaya, Naya
Raipur, District Raipur (C.G.)
2. The Jail and Correctional Services Chhattisgarh, the Director
General Prisons, Jail Road, Raipur, District Raipur (C.G.)
3. The Jail Superintendent, Central Jail, Raipur, District Raipur
(C.G.)
4. The District Magistrate, Baloda Bazar-Bhatapara, District Baloda
Bazar-Bhatapara (C.G.)
5. The Superintendent of Police, Baloda Bazar, District Baloda
Bazar-Bhatapara (C.G.)

---- Respondents

For Petitioner:	Mr. Sunil Pillai, Advocate.
For Respondents / State:	Mr. Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

07/04/2017

1. The petitioner's application for grant of leave under the
Chhattisgarh Prisoner's Leave Rules, 1989 has been rejected by
the Additional District Magistrate, Baloda Bazar-Bhatapara on
the ground that the petitioner is likely to abscond if he is released

on parole against which this writ petition has been preferred by the petitioner / convict person.

2. Learned counsel for the petitioner would submit that no reason has been assigned by the Additional District Magistrate and merely on the ground that the petitioner is likely to abscond if he is released on parole, the application for grant of leave has been rejected which is per se illegal in view of the decision of this Court in the matter of **Rakesh Shende v. State of Chhattisgarh and others**¹.
3. However, the State counsel would oppose the writ petition and supports the order impugned.
4. 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 the matter of **Inder Singh and another v. State (Delhi Administration)**² and keeping in view that the nature and length of sentence or magnitude of the crime committed by the prisoners may not be

1 W.P.(Cr.)No.29/2016 decided on 18-11-2016

2 AIR 1978 SC 1091

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.

5. 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.

6. In view of the aforesaid legal position, the application has not

been considered on merits and only rejected on the ground that the petitioner / convict person is likely to abscond.

7. Consequently, I am of the considered opinion that the order passed by the Additional District Magistrate, Baloda Bazar-Bhatapara (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.
8. The writ petition is allowed to the extent indicated herein-above. There shall be no order as to costs.

Sd/-
(Sanjay K. Agrawal)
Judge