

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Cr.) No.225 of 2019

Rajesh Kshatri S/o Lochan Kshatri, Convict No.2974/10, Aged about 30 years, Lodged in Raipur Central Jail, Raipur, Distt. Raipur, Chhattisgarh

--- Petitioner

Versus

1. State of Chhattisgarh Through : Secretary, Department of Home, Mantralaya, Naya Raipur, District Raipur (Chhattisgarh)
2. Jail Superintendent, Central Jail Raipur, District – Raipur, Chhattisgarh
3. Superintendent of Police, Raipur, District Raipur, Chhattisgarh
4. Collector, Raipur, Distt. Raipur (CG)
5. Additional District Magistrate, Raipur, Distt. Raipur (CG)
6. Thana In-charge, Police Station Saraswati Nagar, Distt. Raipur (CG)

--- Respondents

For Petitioner	:	Ms Rajni Soren, Advocate
For Respondents	:	Mr.Ghanshyam Patel, Govt.Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

24/04/2019

1. The petitioner is a convict and undergoing sentence in Central Jail, Raipur. He filed an application for grant of parole for 10 days. That application was rejected by the impugned order holding that there is likelihood of breach of peace on his release on parole, against which, this writ petition has been filed.
2. Reply has been filed by the respondents/State supporting the impugned order.
3. Ms Rajni Soren, learned counsel for the petitioner, would submit that Station House Officer, Police Station Saraswati Nagar has submitted the report, which is favourable to the petitioner, but at the end of the

report dated 18.9.2018 (Annexure P/4) he has mentioned that there is likelihood of breach of peace on his release, therefore, he should not be released and that report has been accepted by the Superintendent of Police, Raipur and the Additional District Magistrate, Raipur, which is liable to be set aside.

4. On the other hand, Mr.Ghanshyam Patel, learned Government Advocate for the respondents/State, would support the impugned order.
5. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
6. Application filed by the petitioner for grant of parole for 10 days was inquired into by the District Magistrate through the Station House Officer, Police Station Saraswati Nagar, Raipur, he has given the report, in which nothing has been shown against the petitioner, but in concluding paragraph of the said report, the SHO has recorded that there is likelihood of breach of peace on his release on parole, therefore, he should not be released. That report was accepted by the Superintendent of Police, Raipur and the Additional District Magistrate. The Additional District Magistrate has not recorded any independent finding whether there is likelihood of breach of peace on his release.
7. In view of above, the impugned order dated 28.12.2018 (Annexure P/1) passed by the Additional District Magistrate, Raipur, which is based on no material, is set-aside. The District Magistrate/Additional District Magistrate, Raipur is directed to consider and pass a

reasoned and speaking order afresh after due application of mind within 7 days from the date of receipt of a copy of this order, strictly on the basis of material available on record.

8. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

B/-