

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPCR No. 387 of 2019**

Ashok Kumar Sahu S/o Basant Sahu, Aged about 32 years, R/o Village Tendua, P.S. Patna, Tahsil Baikunthpur, District Korea, Chhattisgarh, Through Basant Ram Sahu (Father of Petitioner) S/o Late Shri Suraj Lal Sahu, Aged about 68 years, R/o Village Tendua, P.S. Patna, Tahsil Baikunthpur, District Korea, Chhattisgarh.

**---Petitioner****Versus**

1. State of Chhattisgarh, Through the Principal Secretary, Department of Home (Jail), Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur, Chhattisgarh.
2. The Jail and Correctional Services Chhattisgarh, The Director General Prisoners, Jail road, Raipur, District Raipur, Chhattisgarh.
3. The Jail Superintendent Central Jail Ambikapur, District Surguja, Chhattisgarh.
4. The District Magistrate, Baikunthpur, District Korea, Chhattisgarh.
5. The Superintendent of Police, Baikunthpur, District Korea, Chhattisgarh.

**---- Respondents**


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| For Petitioner | : | Mr. Anil Singh Rajput, Advocate              |
| For State      | : | Mr. Mateen Siddiqui, Deputy Advocate General |

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**Hon'ble Shri Justice Sanjay K. Agrawal****Order on Board****27/11/2019**

1. Petitioner herein is convicted for offence punishable under Sections 302, 201, 120-B of IPC and is presently undergoing life imprisonment at Central Jail, Ambikapur. He moved an application

for grant of parole under the Chhattisgarh Prisoners Leave Rules, 1989 (in short "the Rules, 1989") wherein learned District Magistrate, Baikunthpur sought a report from the Superintendent of Police, who, in turn, called a report from the Station House Officer. The Superintendent of Police, in his report, has recommended that the petitioner be released on parole. But, acting upon the objection raised by the relatives of the victim, the District Magistrate rejected petitioner's application vide order dated 01/03/2018 against which this writ petition has been preferred by the petitioner.

2. Mr. Anil Singh Rajput, learned counsel for the petitioner would submit that simply acting on the objection raised by the relatives of the victim, the District Magistrate has refused to grant permission to sanction leave to the petitioner which is wholly impermissible and bad in law, thus, the order passed by the district Magistrate rejecting petitioner's application deserves to be set aside and the petitioner deserves to be released on leave.
3. Mr. Mateen Siddiqui, learned State counsel would support the impugned order passed by the District Magistrate.
4. I have heard learned counsel for the parties, considered their rival submissions and went through the records.
5. Under Rule 4 of the Rules, 1989, a prisoner who fulfills the conditions laid down in Section 31-A of the Prisoners Act, 1900 (for short 'the Act, 1900'); has not committed any offence while in jail and has completed more than two years of jail sentence is eligible for general leave. While considering such application, the District

Magistrate is enjoined under Rule 6 to consider whether refusal to grant leave is fraught with danger to the public safety. If such is not the eventuality leave is ordinarily allowed, without detriment to public interest.

6. In the case at hand, petitioner has not committed any offence while in jail and has undergone more than 12 years of imprisonment. The record do not suggest anywhere that petitioner's release is either detriment to public safety or it is fraught with danger to public safety. Ordinarily, victim's family would never agree for release of a prisoner for emotional and sentimental constraints, however, mere objection by relatives of the victim has not been made a ground for refusal to grant leave under Rule 6 of the Rules, 1989. (See : ***Santhram Sinha v. State of Chhattisgarh and Ors.***<sup>1</sup> decided on 07/01/2016 and ***Rakesh Shende v. State of Chhattisgarh and Ors.***<sup>2</sup> decided on 18/11/2016)
7. The report of the Station House Officer/Superintendent of Police has nowhere stated that petitioner's release is detrimental to public interest. Taking into consideration the aforesaid fact with regard to petitioner's release being not detrimental to public interest, the impugned order passed by the District Magistrate is quashed. The petitioner is held to be entitled to leave for the period prayed by him in his application. Let the concerned District Magistrate and the Superintendent, Central Jail, Ambikapur, do the needful in the matter within a period of 15 days from the date of receipt of certified copy of this order.

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1 WPCr No. 182 of 2015

2 WPCr No. 29 of 2016

8. It is made clear that on completion of the leave period, the petitioner shall surrender to the Jail authorities immediately and shall not commit any offence or create any law and order situation during the period of leave.
9. Accordingly, the writ petition is allowed to the extent indicated herein-above. No cost(s).

**Sd/-  
(Sanjay K. Agrawal)  
Judge**

Harneet