

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**W.P.(CR.) No. 527 of 2019**

Kanchan Ghosh, S/o. Kalyan Ghosh, Aged About 47 Years, Convict No. 9617/95, Lodged In Raipur Central Jail, Raipur, District Raipur Chhattisgarh, R/o H.No. 20, Samridhhi, Enclave Abaspara, Ameri, District Bilaspur Chhattisgarh.

**---- Petitioner**

***Versus***

1. State Of Chhattisgarh, Through : The Chief Secretary, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
2. Secretary, Department of Home, Mantralaya, Naya Raipur, District Raipur Chhattisgarh.
3. Director General Prisons, The Jail and Correctional Services Chhattisgarh, Jail Road, Raipur, District Raipur Chhattisgarh.
4. Jail Superintendent, Central Jail Raipur, District Raipur Chhattisgarh.,
5. District Magistrate Cum Collector Bilaspur, District Bilaspur Chhattisgarh.
6. Station House Officer, Police Station Sakri, District Bilaspur Chhattisgarh.

**-----Respondents**

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| For Petitioner        | : Mr. Kishore Narayan, Advocate |
| For Respondents/State | : Mr. Vikram Dixit, G.A.        |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order On Board**

**24/07/2019**

Heard.

1. The present petition under Article 226 of the Constitution of India has been filed for issuance of writ of mandamus and for issuance of direction to the respondent authorities to act upon the leave/parole application (Annexure P/1) submitted by the mother of the petitioner.
2. It is submitted that the petitioner is life convict and he is undergoing sentence in jail. After completion of four years in jail, he has become

entitled for benefit of release on leave under Chhattisgarh Prisoners Leave Rules, 1989 (hereinafter referred to Rules, 1989). The petitioner has spent about 16 years in jail. On this basis, the application for grant of leave was filed by the mother of petitioner on 26.03.2019 (Annexure P-1), which has not been decided till date. It is further submitted that the petitioner has sought information in this regard under Right to Information Act vide application dated 18.04.2019, but till date the information sought by the petitioner is not supplied to the petitioner. Therefore, it is prayed that appropriate directions may be issued to the respondents for release on leave of the petitioner.

3. Learned State counsel opposes the petition.
4. I have heard the learned counsel for the parties and perused all the documents placed on record.
5. Having considered the rival contentions put forth on behalf of either side what is relevant at this juncture is that the State Government has enacted specific rules in respect of grant of leave to the prisoners in exercise of its powers conferred upon it under the provisions of the Prisoners Act, 1900. The Rules in the State of Chhattisgarh are known as 'The Chhattisgarh Prisoner's Leave Rules, 1989'. Rule 4 of the Rules of 1989 deals with the conditions of leave. For ready reference the said clause is reproduced herein below :

**“4. *Conditions of Leave.*—** The prisoners shall be granted leave under sub-section (1) of Section 31-A of the Act on the following conditions, namely :—  
(a) He fulfills the conditions laid down in Section 31-A of the Act;  
(b) He has not committed any offences in jail between the date of application for leave and receipt of the order of such leave;  
(c) The releasing authority must be satisfied that the leave may be granted without detriment to the public interest;  
(d) He gives in writing to the Releasing Authority the

place or places which he intends to visit during the period of his leave and undertake not to visit any other place during such period without obtaining prior permission of the Releasing Authority in that behalf; and

(e) He should furnish security to the satisfaction of the Releasing Authority if such security is demanded by the Releasing Authority.”

6. In ***Dadu alias Tulsidas Vs. State of Maharashtra, 2000 (8) SCC***

**437**, the Supreme Court held as under :

“6. Parole is not a suspension of sentence. The convict continues to be serving the sentence despite granting of parole under the statute, rules, jail manual or the Government Orders. “Parole” means the release of a prisoner temporarily for a special purpose before the expiry of a sentence, on the promise of good behaviour and return to jail. It is a release from jail, prison or other internment after actually being in jail serving part of sentence.”

7. Considering the reasons assigned and the prevailing rules, the respondents are directed to decide the application of the petitioner for parole (Annexure P/1) and the petitioner may be released on parole as has been applied for a limited period according to the application after compliance of surety which has been normally followed.

**Sd/-**  
**(Rajendra Chandra Singh Samant)**  
Judge