

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Cr.) No.97 of 2020

Radheshyam Patel S/o Shri Chandrashekhar Patel, Aged about 54 years, R/o Village Salhe, Police Station-Dabhara, District-Janjgir-Champa (CG), Present Address: Premnagar, In Front of Collectorate, Beside Railway Line, Panjari Plant, Police Station-Chakradharnagar, District-Raigarh (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Home (Jail) Department, Mantralaya, Mahanadi Bhawan, Raipur (C.G.)
2. The Director General of Prisons and Correctional Services Chhattisgarh, Head Quarter Prisons and Correctional Services Chhattisgarh, Raipur (C.G.)
3. The Collector-cum-District Magistrate, Raigarh (C.G.)
4. The Superintendent of Police, Raigarh (C.G.)
5. The Jail Superintendent, Central Jail, Bilaspur (C.G.)

---- Respondents

For Petitioner: Mr. Rishi Rahul Soni, Advocate.

For Respondents / State: -

Mr. Mateen Siddiqui, Deputy Advocate General, on advance copy.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

14/02/2020

1. The petitioner's application for grant of leave on parole has been rejected principally on the ground that he has not served the period of three years or one half of the total period awarded, therefore, he is not entitled to be released on parole.
2. Learned counsel for the petitioner would submit that such an order passed is contrary to Section 31-A(3) of the Prisoners

Act, 1900.

3. Learned State counsel would support the impugned order.
4. I have heard learned counsel for the parties and considered their rival submissions made hereinabove and also went through the record with utmost circumspection.
5. Section 31-A(3) of the Prisoners Act, 1900 provides as under:-

“31-A. Temporary release of prisoners.—(1)
The State Government or any authority to which the State Government may delegate its power in this behalf may, subject to such conditions as may be prescribed by rules, release temporarily for a period not exceeding ten days in a year excluding the time required for journeys and the days of departure from and the arrival at the prison, any prisoner who has been sentenced to a term of imprisonment of not less than three years.

(2) xxx xxx xxx

(3) No prisoner shall be released under sub-section (1) unless—

(a) he has, at the time of his release served one half of his sentence including remission or a period of not less than two years of his sentence, including remission, whichever is less ;

(b) his conduct in prison has been good ; and

(c) twelve months have elapsed from the date of the expiry of the period of his previous release, if any, under this section.

(4) xxx xxx xxx”

6. The petitioner has been awarded sentence of rigorous imprisonment for seven years for which he is undergoing sentence and he is in jail since 31-1-2018. Admittedly, the petitioner has served more than two years in terms of Section 31-A(3) of the Prisoners Act, 1900, therefore, the finding

recorded by the District Magistrate is contrary to the Act and the rules made thereunder.

7. In view of above, the writ petition is allowed and the impugned order is set-aside. The petitioner shall be released on parole for a period of 10 + 2 days subject to furnishing bail bond of Rs.25,000/- and a surety in the like sum to the satisfaction of the District Magistrate. He will immediately surrender himself after completion of the aforesaid period.
8. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

B/-