

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPCR No. 318 of 2020**

Anil Rawani S/o Munna Ram Rawani, Aged about 40 years, Prisoner No. 337/48, R/o Village Ludeg P.S. Pathalgaon, District Jashpur, Chhattisgarh.

Through :

Munna Ram Rawani S/o Late Ram Ramvriksh, Aged about 65 years, R/o Village Ludeg, P.S. Pathalgaon, District Jashpur, Chhattisgarh.

---Petitioner(in jail)

Versus

- 1.State of Chhattisgarh, through the Secretary, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh.
- 2.Collector/District Magistrate, Jashpur, District Jashpur, Chhattisgarh.
- 3.Superintendent of Police, Jashpur, District Jashpur, Chhattisgarh.
- 4.Jail Superintendent, Central Jail, Ambikapur, District Surguja, Chhattisgarh.

--- Respondents

For Petitioner	:-	Mr. Nishikant Sinha, Advocate
For State	:-	Mr. Ravi Bhagat, Dy. G.A.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

11/08/2020

- 1.Petitioner herein is a prisoner who has been sentenced for life imprisonment for commission of offence punishable under Section 302 of IPC and is

serving his jail sentence in Jashpur jail. In 2019, petitioner made an application for grant of leave (parole) as per the relevant parole rules in which the District Magistrate, Jashpur called a report from the Superintendent of Police, Jashpur. The report was submitted by the Superintendent of Police, Jashpur on 19/06/2019 with some adverse recommendation and thereafter, accepting the said report, petitioner's application for grant of leave of parole was rejected by the District Magistrate, Jashpur vide order dated 16/07/2019 (Annexure P/1) which was the subject matter of WPCR No. 847/2019 filed by the petitioner before this Court. Ultimately, the order passed by the District Magistrate, Jashpur (Annexure P/1) was set aside vide order dated 11/09/2019 (Annexure P/2) wherein this Court directed the District Magistrate, Jashpur to decide petitioner's application for grant of leave of parole afresh by passing a reasoned and speaking order, but this time again, by the impugned order dated 28/09/2019 (Annexure P/3), petitioner's application has been rejected against which the instant writ petition has been preferred.

2. Mr. Nishikant Sinha, learned counsel for the petitioner, would submit that petitioner had

firstly made the application in the month of June, 2019 and more than an year has passed, but his application has not been decided competently and he has still not been admitted to the privilege of parole despite serving sentence for a fairly long time. He would further submit that in light of the decision recently rendered by the Supreme Court in **Shor v. State of U.P.** on 05/08/2020 in W.P(Cr.) No. 58/2020, the present writ petition deserves to be allowed and the petitioner deserves to be released on parole.

3. Mr. Ravi Bhagat, learned State counsel, would submit that petitioner's case will be considered afresh as new Government has taken over.

4. I have heard learned counsel for the parties at length and perused the record with utmost circumspection.

5. A careful perusal of the record would show that the first application made by the petitioner for grant of leave of parole was rejected by the District Magistrate, Jashpur by passing a non-reasoned and non-speaking order (Annexure P/1) by merely citing the adverse recommendation made by the Superintendent of Police, Jashpur. The said order passed by the District Magistrate, Jashpur was

ultimately set aside by the order passed by this Court in WPCR No. 847/2019 (Annexure P/2) thereby, directing the District Magistrate, Jashpur to consider petitioner's application again by passing a reasoned and speaking order but then again, without any reasoned order, petitioner's application has been rejected. Under the relevant rules, petitioner's application for grant of leave of parole ought to have been considered, but it has not been done and by merely citing the adverse recommendation made by the Superintendent of Police, Jashpur, his application has been rejected by the District Magistrate, Jashpur vide the impugned order (Annexure P/1).

6. Recently, in the matter of **Shor** (supra) passed on 05/08/2020, the Supreme Court has granted the benefit of parole to those whose application was rejected on the ground that the crime is heinous and release of such a person would send a negative message against the justice system in the society.

“... Merely repeating the fact that the crime is heinous and that release of such a person would send a negative message against the justice system in the society are factors de hors Section 2 of the United Provinces Prisoners Release on Prohibition Act, 1938. Conduct in prison has not been

referred to at all and the Senior Superintendent of Police and the District Magistrate confirming that the prisoner is not "incapacitated" from committing the crime is not tantamount to stating that he is likely to abstain from crime and lead a peaceable life is released from prison..."

7. In the instant case also, merely by citing the adverse recommendation made by the Superintendent of Police, Jashpur and without considering the relevant rules, petitioner's application has been rejected. In that view of the matter and in view of the decision of the Supreme Court passed in **Shor** (supra), the impugned order passed by the District Magistrate, Jashpur (Annexure P/1) is hereby set aside and the petitioner is directed to be released on parole within two weeks from today subject to the conditions as per the rules to be enforced by the District Magistrate, Jashpur.

8. Accordingly, the present writ petition is allowed.

No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge