

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWrit Petition (Cr.) No.604 of 2020

Mehtarin Bai Sen, W/o Dwarika Prasad Sen, Convict No.3060/14,
Aged about 50 years, Lodged in Raipur Central Jail, Raipur,
Distt. Raipur (C.G.)

(In Jail)
---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Home, Mantralaya, Naya Raipur, District Raipur (C.G.)
 2. Jail Superintendent, Central Jail Raipur, District Raipur (C.G.)
 3. Collector, Baloda Bazar, Distt. Baloda Bazar-Bhatapara (C.G.)
 4. Superintendent of Police, Distt. Baloda Bazar-Bhatapara (C.G.)
 5. Thana In-charge Kashdol, Baloda Bazar-Bhatapara (C.G.)
- Respondents

Writ Petition (Cr.) No.616 of 2020

Shiv Kumar Sen, S/o Dwarika Prasad Sen, Convict No.3161/11,
Aged about 33 years, Lodged in Raipur Central Jail, Raipur,
Distt. Raipur (C.G.)

(In Jail)
---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Home, Mantralaya, Naya Raipur, District Raipur (C.G.)
 2. Jail Superintendent, Central Jail Raipur, District Raipur (C.G.)
 3. Collector, Baloda Bazar, Distt. Baloda Bazar-Bhatapara (C.G.)
 4. Superintendent of Police, Distt. Baloda Bazar-Bhatapara (C.G.)
 5. Thana In-charge Kashdol, Baloda Bazar-Bhatapara (C.G.)
- Respondents

ANDWrit Petition (Cr.) No.617 of 2020

Ritesh Kumar, S/o Dwarika Prasad Sen, Convict No.3560/11,
Aged about 22 years, Lodged in Raipur Central Jail, Raipur,
Distt. Raipur (C.G.)

(In Jail)
---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Department of Home, Mantralaya, Naya Raipur, District Raipur (C.G.)
 2. Jail Superintendent, Central Jail Raipur, District Raipur (C.G.)
 3. Collector, Baloda Bazar, Distt. Baloda Bazar-Bhatapara (C.G.)
 4. Superintendent of Police, Distt. Baloda Bazar-Bhatapara (C.G.)
 5. Thana In-charge Kashdol, Baloda Bazar-Bhatapara (C.G.)
- Respondents

For Petitioners: Ms. Rajni Soren, Advocate.

For Respondents/State: -

Mr. Animesh Tiwari, Mr. H.S. Ahluwalia, Deputy Advocate Generals and Mr. Ravi Kumar Bhagat, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/12/2020

1. This batch of writ petitions has been preferred by the petitioners who are convicted persons for offence under Section 302 of the IPC arising out of one criminal case and they are said to be in jail also.
2. Ms. Rajni Soren, learned counsel appearing for the petitioners, would submit that by the impugned order, in paragraph 1 to 5, the learned District Magistrate has noted the facts of the case and the enquiry made and in the next paragraph, only keeping in view the law and order situation, the applications of the petitioners for parole have been rejected, though the case law in the matter of Rakesh Shende v. State of Chhattisgarh and others¹ has been noticed, but nothing has been considered and a non-speaking and unreasoned order has been passed. No

¹ W.P.(Cr.)No.29/2016, decided on 18-11-2016

finding with respect to Rule 6 of the Chhattisgarh Prisoner's Leave Rules, 1989 has been recorded that release of the petitioners on parole will affect the public safety.

3. On the other hand, learned State counsel would oppose the petitions.
4. A careful perusal of the impugned order would show that the learned District Magistrate in paragraphs 1 to 5 has noted the facts of the case and report called from the Superintendent of Police, Baloda Bazaar and the Tahsildar Kasdol and in the next paragraph, simply rejected the applications in order to maintain the law and order situation, whereas, the learned District Magistrate was required to record a finding as to whether the release of the petitioners on parole is detrimental to public safety and he is further required to pass a reasoned order in the light of the decision of this Court in **Rakesh Shende** (supra). As such, the impugned orders dated 14-8-2020 passed by the District Magistrate, Baloda Bazaar in all the three writ petitions are hereby set aside and the matters are remitted back to the District Magistrate, Baloda Bazaar for passing a fresh order in the light of Rule 6 of the Chhattisgarh Prisoner's Leave Rules, 1989 as well as the decision in **Rakesh Shende** (supra) and pass a reasoned and speaking order within ten days from the date of receipt of a copy of this order.
5. The writ petitions are allowed to the extent indicated hereinabove. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge