

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 384 of 2021

Lakhan Dhimar, S/o Ganga Prasad Dhimar, Aged About 25 Years, R/o Sindhi Colony, P.S. Civil Line, District- Bilaspur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through- The Secretary, Home Department (Jail) Department, Mantralay Mahanadi Bhawan, New Raipur, Police Station- Rakhi, District- Raipur (C.G.)
2. The Jail Superintendent, Central Jail Bilaspur, District- Bilaspur (C.G.)
3. The District Collector Bilaspur, District- Bilaspur (C.G.)

---- Respondents

For Petitioner	:	Mr. Raj Kumar Gupta, Advocate.
For State/Respondents	:	Mr. Devendra Pratap Singh, Dy. Advocate General.

Hon'ble Shri Justice Narendra Kumar Vyas

Order On Board

29.06.2021

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India praying for his release on parole, who is in jail for committing offence under Section 302 of I.P.C.
2. Learned counsel for the petitioner would submit that the petitioner has been convicted by learned Additional Sessions Judge, Bilaspur (C.G.) in Session Trial No. 153/2018 (State of Chhattisgarh Vs. Sunny & others) on 04.01.2020 for life imprisonment. He would further submit that the petitioner has preferred an appeal before this Court and the Coordinate Bench of this Court has already rejected the prayer for grant of suspension of sentence and grant of bail of the petitioner.
3. The petitioner has filed the present writ petition for grant of parole for seven days on account of marriage of his brother, which has to be solemnized from 28.06.2021 to 04.07.2021. The

petitioner has also submitted application on 11.06.2021 before District Magistrate, Bilaspur for grant of parole, but there is no communication of the order, as such, he has filed the present writ petition for release on parole for seven days.

4. Learned counsel for the petitioner has relied upon judgment passed by Coordinate Bench of this Court in WPRC No. 29/2016 (Rakesh Shende Vs. State of Chhattisgarh) & WPCR No. 207/2014 (Virendra Ku. Sinha Vs. State of Chhattisgarh)
5. It is further contended by learned counsel for the petitioner that due to present pandemic Covid-19, the Hon'ble Supreme Court has also directed the authorities to release the prisoners/accused on parole, who are in jail for more than three years and who have already been released on parole in the year 2020.
6. Learned State counsel submits that as per Sub-Rule (2) of Rule 4-B of the Chhattisgarh Prisoners Leave Rules, 1989 (for short "the Rules, 1989"), the prisoners who have been prosecuted in any other case or cases, when are undertrial in the Court, in spite of his release on security in that case. He would further submit that the petitioner has mentioned in paragraph 8.2 of the petition that the petitioner is facing more criminal case, therefore, he is not entitled to be released on parole.
7. The issue, which has to be examined before this Court, is whether on account of marriage of brother of the petitioner, the petitioner is entitled to be released on parole. From perusal of Rule 4-D of the Rules, 1989, there is provision for emergency leave for marriage and Section 4-D of the Rules, 1989, which are as under:-

(1) **Emergency Leave for Marriage-** Prisoner shall be eligible for leave for a period of 15 days for the marriage of himself, his/her daughter/ son, sister and brother.

(2) **Emergency Leave in case of death –** Prisoner shall be eligible for leave for a period of 15

days in the event of death of his/her son/daughter, his/her mother/father as well as or father of his/her wife/husband.

Note-

(1) The duration of emergency leave shall not be included while calculating the duration of the prisoner's total sentence.

(2) No prisoner shall be sanctioned more than one emergency leave for marriage in a year.

8. Learned counsel for the petitioner has annexed the marriage invitation card (Annexure P/2) and submits that the marriage of his brother has to be solemnized from 28.06.2021 to 04.07.2021. As per provision of Rule 4-D of the Rules, 1989, the petitioner is entitled to be released on parole to get emergency leave.
9. In view of the above, the present writ petition filed by the petitioner is disposed of with a direction that the petitioner is entitled to get four days emergency leave as per rule 4-D of the Rules, 1989.
10. The Jail, Superintendent, Bilaspur, District- Bilaspur (C.G.) is directed to sanction emergency leave to the petitioner as per Rule 4-D of the Rules, 1989 for a period of **four days** i.e. from **1st July, 2021** to **4th July, 2021**. After availing the parole period, the petitioner is directed to surrender before the Jail Superintendent, Bilaspur, District- Bilaspur (C.G.) on **5th July, 2021** before 12:00 noon.

Certified copy as per rules.

Sd/-
(Narendra Kumar Vyas)
Judge