

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPCR No. 470 of 2021**

- Firdos Alam S/o Riyasat Hussain Aged About 26 Years R/o Ward No. 14, Ramanujganj, Police Station- Ramanujganj, District- Balrampur-Ramanujganj, Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh, Through : The Secretary, Home (Police) Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, Chhattisgarh.
2. The Collector And District Magistrate District- Balrampur-Ramanujganj, Chhattisgarh.
3. The Superintendent of Police District- Balrampur- Ramanujganj, Chhattisgarh.
4. The Jail Superintendent Central Jail, Ambikapur, District- Surguja, Chhattisgarh.
5. The Station House Officer Police Station- Ramanujganj, District- Balrampur- Ramanujganj, Chhattisgarh.

---- Respondents

For Petitioner	: Shri Harish Khuntiya, Adv.
For State	: Shri Akhtar Hussain, P.L.

Hon'ble Smt. Justice Rajani Dubey, J.
Order on Board

07/12/2021

1. Heard.
2. The present petition has been filed under article 226 of the Constitution of India challenging the order dated 14.06.2021 passed by the District Magistrate Balrampur-Ramanujganj (C.G.) whereby the application filed by the petitioner under Chhattisgarh Prisoner's Leave Rule 1989 for grant of leave (parole) has been rejected.
3. The petitioner is a prisoner who has been convicted for the offence under Section 306 of the IPC, Section 67-A of Information Technology Act and is languishing in jail since 23.01.2019. He made an application for grant of leave under Chhattisgarh

Prisoner's Leave Rule 1989 on the ground that his marriage was fixed for 21.05.2021 but due to delay in process of parole the marriage was postponed for 02.06.2021 but the application for grant of leave (parole) was dismissed by the District Magistrate Balrampur-Ramanujganj vide order dated 14.06.2021. Feeling dissatisfied and aggrieved against that order, the instant writ petition has been filed.

4. Mr. Harish Khuntiya, learned counsel appearing for the petitioner would submit that he want to withdraw this petition with liberty to file a fresh petition when the marriage of the petitioner will fix again.
5. Mr. Akhtar Hussain, learned Penal Lawyer appearing for the State/Respondents has no objection to this proposition.
6. Heard counsel for the parties and perused the material available on record.
7. This Court in the matter of **Rakesh Shende Vs. State of Chhattisgarh & Others** in **Writ Petition (Cr.) No. 29/2016** vide order dated 18.11.2016 held in paras 22 & 23 as under:-

“22. As noticed herein above, the power of parole has been conferred by the rules to the District Magistrate and the post of District Magistrate is manned in the State of Chhattisgarh by a member of Indian Administrative Service. Therefore, the District Magistrate is required to exercise the power to consider the application for grant of parole. He has to take into consideration the object and need to grant parole to the convicted prisoners by applying their mind and come to a conclusion judiciously. The order passed by the District Magistrate in the instant case would show the complete non-application of mind, as by a cyclostyle order only name and number of prisoner has been inserted and it has been signed by the Additional District Magistrate. The manner in which the order has been passed by the District Magistrate in a mechanical manner is suggestive of betrayal of the confidence which the rule making authority reposed in the District Magistrate in conferring upon him to

exercise the power to grant parole.

23. At this stage, it would be appropriate to notice the following binding observation made by the Supreme Court in the matter of **Tarlochan Dev Sharma v. State of Punjab & Others**¹

“16..In the system of Indian democratic governance as contemplated by the Constitution, senior officers occupying key positions such as Secretaries are not supposed to mortgage their own discretion, volition and decision making authority and be prepared to give way or being pushed back or pressed ahead at the behest of politicians for carrying out commands having no sanctity in law. The conduct Rules of Central Government Services command the civil servants to maintain at all times absolute integrity and devotion to duty and do nothing which is unbecoming of a government servant. No government servant shall in the performance of his official duties or in the exercise of power conferred on him act otherwise than in his best judgment except when he is acting under the direction of his official superior...”

8. Considering the facts and materials on record and in view of the law laid down by this Court the writ petition (criminal) is finally disposed of with direction that whenever the petitioner will file an application for grant of leave (parole) before the respondents for his release the learned competent authorities would decide his application according to this Court's order in the matter of **Rakesh Shende Vs. State of Chhattisgarh & Others** in **Writ Petition (Cr.) No. 29/2016** vide order dated 18.11.2016.

**Sd/-
(Rajani Dubey)
Judge**