

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr.) No.546 of 2018**

Krishna Kumar Raj, S/o Shri Naval Singh Raj, aged about 38 years, R/o Village Pandarikhar, P.S. Kukdur, Tahsil Pandariya, District Kabirdham (CG) through Chhoturam Chandravanshi, S/o Jahrilal, aged about 39 years, R/o Village Dongariya, P.S. Pandatarai, District Kabirdham (CG)

----- Petitioner**Versus**

- 1.State of Chhattisgarh, Through its Principal Secretary, Department of Home (Jail), Mahanadi Bhavan, Mantralaya, Naya Raipur, District-Raipur (CG)
- 2.The Jail and Correctional Services Chhattisgarh, The Director General Prisons, Jail Road Raipur, District Raipur (CG)
- 3.The Jail Superintendent, Central Jail Durg, District Durg (CG)
- 4.The District Magistrate, Kabirdham, District Kabirdham (CG)
- 5.The Superintendent of Police Kabirdham, District Kabirdham (CG)

----- Respondents

For Petitioner: Mr.Sunil Pillai, Advocate
 For Respondents/State: Mr.Sunil Otwani, Addl.A.G.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****19/02/2021**

1. Mr.Sunil Pillai, learned counsel for the petitioner, would submit that the petitioner's application for parole has been rejected by the Executive Magistrate by order dated 7.8.2018 (Annexure R-2) and not by the District Magistrate/Collector, Kabirdham and the

District Magistrate/Collector is competent authority to consider the application for grant of leave/parole. He would further submit that merely on the recommendation of the Superintendent of Police, Kabirdham not to release the petitioner, his application for parole has been rejected without considering the provisions contained in Rule 6 of the Chhattisgarh Prisoners Leave Rules, 1989 and decision rendered by this Court in Rakesh Shende v. State of Chhattisgarh (in WPCR No.29 of 2016, decided on 18.11.2016) has not been considered.

2. Mr. Sunil Otvani, learned Additional Advocate General for the respondents/State, would submit that the petitioner's application will be considered afresh by the competent authority.
3. I have heard learned counsel for the parties and perused the documents appended with the writ petition.
4. A careful perusal of Annexure R-2 would show that the order has been passed by the Executive Magistrate, whereas the competent authority to grant leave/parole is the District Magistrate/Collector. Apart from this, merely agreeing with recommendation of the Superintendent of Police not to release the petitioner, his application for parole has been rejected. There is no material on record that release

of the petitioner is detrimental to public safety.

5. In that view of the matter, the impugned order dated 7.8.2018 (Annexure R-2) passed by the Executive Magistrate, Kabirdham is set-aside. The matter is remitted to the District Magistrate/Collector, Kabirdham for considering the petitioner's application for parole afresh within 15 days from today.
6. The writ petition is allowed to the extent indicated hereinabove. No cost(s).

Sd/-

(Sanjay K.Agrawal)
Judge

B/-