

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. No. 25391 of 2023

Ashabuddin alias Soukat
Vs.
The State of West Bengal & Ors.

Mr. Gaisul Islam
.... for the petitioner

Mr. Anirban Ray,
Mr. Tanoy Chakraborty,
Ms. Ashmita Chakraborty
....for the State

1. The issue involved in the present writ petition is more on a sensitive note than an assertion of a statutory right.
2. The petitioner is a convict who seeks parole.
3. Although learned counsel appearing for the State hands over a copy of an order dated October 12, 2023, which indicates that parole has been granted to the petitioner for five days to attend his daughter's wedding on November 05, 2023, the remark column thereof indicates that such parole has been granted under "strong police guard".
4. Learned counsel appearing for the petitioner submits that if the petitioner goes to attend his daughter's wedding under strong police protection, the

same would not only cast a stigma on the petitioner but also jeopardize the goodwill and the reputation of his daughter at the location of the marriage and to her in-laws.

5. It is submitted that, as such, since on a previous occasion the petitioner was granted fifteen days' parole without any police security but he returned duly to the Alipore Central Correctional Home after the said period, the same order should be passed in the present instance as well.

6. Learned counsel appearing for the State submits that there is a time-lapse between the prior occasion when parole was granted, which was in the year 2013, and the present occasion. It is submitted that at that juncture, the trial was going on whereas the petitioner has been convicted now.

7. Learned counsel places reliance on Section 62(3) of the West Bengal Correctional Services Act, 1992 and argues that within the contemplation of the said provision, a prisoner can be released for a period not exceeding five days only in the case of emergency, such as serious illness of his near relative or friend or marriage of his son, daughter, etc.

8. There is not doubt in the present case that parole has already been granted to the petitioner under Section 62 for five days on the ground of his

daughter's marriage, which in any event cannot be reopened.

9. The consideration here is whether in view of the petitioner being previously released under similar circumstances for fifteen days, without any security, the same favour can be sought by the petitioner again.

10. The violation here is not of a statutory right of the petitioner but of the fundamental right of the petitioner to live with dignity as assured by Article 21 of the Constitution of India, which is available to a convict equally as other citizens. The petitioner is justified in submitting that if the petitioner goes to attend his daughter's wedding with strong police guard, the same would undoubtedly jeopardize the petitioner's daughter's dignity in the eye of her in-laws and the invitees to her marriage.

11. As such, looking into the circumstances of the case, there cannot be any reason why the favour extended to the petitioner on the last occasion of parole in the year 2013, which was for a longer period of 15 days and was without any strong security which ended in the petitioner's returning duly to the Alipore Central Correctional Home, should not be granted to the petitioner now.

12. Accordingly, W.P.A. No. 25391 of 2023 is disposed of by modifying the parole granted to the

petitioner vide order dated October 12, 2023 to the extent that the petitioner shall be on parole for the five days (excluding travel time) stipulated therein, however, not under strong police guard as mentioned in the said order.

13. The petitioner shall be accompanied by minimal police personnel, who will not be in uniform during the entire period and shall be stationed immediately outside the venue of the marriage during the entire period of the marriage.

14. The said security shall not intervene in any manner with the performance of the due rituals by the petitioner during the entire period of marriage of his daughter but shall escort the petitioner from the Baruipur Correctional Home to the venue of the marriage and remain in the vicinity of the venue during the entire period and at the time of return, accompany the petitioner back to the Baruipur Correctional Home.

15. All parties shall act on the server copy of this order without insisting upon prior production of a certified copy thereof.

16. There will be no order as to costs.

17. Urgent photostat certified copies of this order, if applied for, be made available to the

parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)