IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Civil Writ Petition No. 12074 of 2024

Decided on : December 23, 2024

Prashanto Nath .....Petitioner
(Lodged in Model Central Jail
Nahan, District Simaur,H.P.)

Versus

State of H.P. and others ....Respondents

Coram:

The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

The Hon'ble Mr. Justice Rakesh Kainthla, Judge

Whether approved for reporting?

For the Petitioner : Ms. Tim Saran, Advocate
For the respondents/ State : Mr.Manoj Chauhan, Additional Advocate General.

Vivek Singh Thakur, Judge (Oral)

By way of this petition, petitioner has approached this Court for enlarging him on parole as his application for parole was rejected by the Competent Authority which was communicated to him vide communication dated 17th August, 2024 (Annexure P-1) issued from the Director General, Prisons and Correctional Services, Himachal Pradesh.

2. From the material placed on record, it is apparent that petitioner is serving imprisonment for life after his conviction in Sessions Trial in case FIR No. 61 of 2019 dated 22.12.2019 registered in Women Police Station Mandi, District

Mandi HP under Sections 363, 376D, 376(3), 34 IPC and 04, 06 of POCSO Act in furtherance to judgment dated 17.10.2022 passed by learned Special Judge, Fast Track Court (POCSO), Mandi, District Mandi.

3. As per Custody Certificate including the under-trial prisoner detention, petitioner has undergone 4 years, 10 months and 7 days sentence as on 29th October, 2024.

4. Application of petitioner has been rejected on the ground that though parents of petitioner are residing at home of their native place, however his elder brother is working at a City Gold Jewellery Shop in Mumbai and there is no guarantee regarding surrender back by petitioner after availing the parole.

5. Learned counsel for petitioner has submitted that petitioner intends to meet his parents who belong to very poor family and are not able to come to Himachal Pradesh from District Madhinipur, West Bengal for want of means. It has been submitted that since last more than 5 years, petitioner has not met his old aged parents and therefore, it is a fit case for enlarging him on temporary release on parole.

6. It has also been submitted that in similar circumstances, Coordinate Benches of this High Court vide judgment dated 19.10.2023 passed in ***CWP No.5978 of 2023,***

titled as Ramesh Kumar vs. State of Himachal Pradesh and others; judgment dated 16.10.2023 passed in ***CWP No.5965 of 2023, titled as Retaish Kumar vs. State of H.P. & others;*** judgment dated 09.10.2023 in ***CWP No.6562 of 2023, titled as Pushp Raj vs. State of H.P. & others;*** judgment dated 23.05.2023 passed in ***CWP No.1710 of 2023, titled as Bihari Lal vs. State of H.P. & others;*** judgment dated 23.07.2021 passed in ***CWP No.3516 of 2021, titled as Virender Kumar alias Bindu vs. State of H.P. & others***; and judgment dated 20.05.2024 passed in ***CWP No.2640 of 2024, titled as Lucky vs. State of H.P. & others;*** judgment dated 10.12.2024, passed in ***CWP No.12159 of 2024, titled Bhura Khan Vs. State of H.P. & others,*** and judgment dated 11.12.2024 passed in ***CWP No. 11597 of 2024, titled as Govind Vs. State of H.P. & others*** after taking into consideration pronouncement of the Supreme Court in ***Asfaq Vs. State of Rajasthan and others, (2017) 15 SCC 55***, have enlarged the petitioner(s) therein on parole.

7. Taking into consideration entire material placed before us, we are of the considered opinion that petitioner cannot be denied parole on the ground which has been cited by the respondents for rejecting his application.

8. Otherwise also, in case of breach of any condition of parole order for any unlawful activity, petitioner has to suffer consequences in accordance with law including cancellation of his temporary release on parole.

9. Accordingly, rejection communicated to the petitioner vide communication dated 17th August, 2024 (Annexure P-1) is quashed and set aside with direction to the respondents-State to reconsider the case of the petitioner for extending benefit of parole to him for a period of 28 days to be specified in appropriate order to be issued to the concerned Authority within seven days from today to ensure enlargement of the petitioner on parole after completing all necessary formalities, including furnishing of bonds etc., immediately thereafter.

10. Needless to say that petitioner shall abide by the conditions imposed upon him by the concerned Authority, in accordance with law, and Rules applicable during the parole period, including to surrender before the Superintendent Jail concerned on expiry of parole period. Petitioner’s parole shall be liable to be cancelled in case of breach of any condition of parole order and/or on creating law and order problem which

shall be treated as a negative factor for consideration of his similar prayers in the future.

11. Accordingly, the petition is disposed of, so also pending application, if any.

12. Petitioner is permitted to produce a copy of this judgment downloaded from the Website of the High Court before the Authorities concerned and the said authorities shall not insist for production of a certified copy, but, if required, may verify passing of the order from the Website of the High Court or otherwise.

(Vivek Singh Thakur)
Judge.

(Rakesh Kainthla)
Judge.

December 23, 2024
(ms)