IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. :15807 of 2025

Reserved on : 28.10.2025

Decided on : 31.10.2025

Mahesh Kumar ...Petitioner

Versus

State of Himachal Pradesh and others ...Respondents

Coram

The Hon'ble Mr. Justice Virender Singh, Judge.

Whether approved for reporting?[1]

For the petitioner : Mr. Ishaan Kashyap, Legal Aid Counsel.

For the respondents : Mr. Varun Chandel, Mr. H.S. Rawat and Mr. Mohinder Zharaick, Additional Advocates General.

Virender Singh, Judge.

By way of the present writ petition, petitioner-Mahesh Kumar has invoked the extra ordinary writ jurisdiction of this Court, under Article 226 of the Constitution of India, seeking the following substantive relief, amongst others:

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[1] *Whether Reporters of local papers may be allowed to see the judgment? Yes.*

> *"(i) Issue a writ of mandamus directing respondent No. 2 to grant parole to the petitioner, in a time bound manner, as per law laid down therefor."*

2. As per the case set up by the petitioner, he has been convicted by the Court of learned Special Judge, Mandi, District Mandi, Himachal Pradesh, vide judgment, dated 4th October, 2023, for the offence, punishable under Section 29 of the NDPS Act, and has been sentenced to undergo rigorous imprisonment for 14 years and to pay a fine of ₹ 1,40,000/-.

3. The petitioner applied for grant of parole for a period of 28 days, by way of application, dated 3rd September, 2024 (Annexure R-2/3), in order to meet his family.

4. According to the petitioner, his application has been rejected by respondent No. 2, on 23rd April, 2025, vide Annexure P-3, without assigning any justifiable reason.

5. On the basis of the above facts, a prayer has been made to quash and set aside the order (Annexure P-3), by virtue of which, the request of the petitioner for releasing him on parole, has been rejected. A prayer has also been made to allow his request for parole.

6. When put to notice, the factual position, with regard to conviction and sentence imposed upon the petitioner, has not been disputed by the respondents.

7. It has also not been disputed that the petitioner had applied for grant of 28 days' parole, on 3rd September, 2024, in order to meet his family.

8. According to the respondents, the request of the petitioner was duly forwarded to the District Authorities, i.e. District Magistrate, Mandi, and Superintendent of Police, Mandi, however, District Magistrate, Mandi, has not recommended the prayer of the petitioner, on the ground that the reason given by the petitioner, in his application, is not covered under the Act and that the presence of the petitioner is dangerous to the security of State or pre-judicial to the maintenance of public order.

9. The other allegations have also been controverted by the respondents.

10. On the basis of the above facts, a prayer has been made to dismiss the writ petition.

11. As per the custody certificate (Annexure R-2/2), the period of sentence undergone by the petitioner, as on

23rd August, 2025, is three years, two months and five days.

12. The petitioner has applied for 28 days' parole, which was recommended to be rejected by the District Magistrate, Mandi, vide letter, dated 7th March, 2025.

13. The primary purpose of releasing the convict on parole has elaborately been discussed by the Hon'ble Supreme Court, in **Asfaq versus State of Rajasthan and others,** reported in **(2017) 15 SCC 55.** Relevant paras-17 to 24, of the judgment, are reproduced, as under:

> *"17. From the aforesaid discussion, it follows that amongst the various grounds on which parole can be granted, the most important ground, which stands out, is that a prisoner should be allowed to maintain family and social ties. For this purpose, he has to come out for some time so that he is able to maintain his family and social contact. This reason finds justification in one of the objectives behind sentence and punishment, namely, reformation of the convict. The theory of criminology, which is largely accepted, underlines that the main objectives which a State intends to achieve by punishing the culprit are: deterrence, prevention, retribution and reformation. When we recognise reformation as one of the objectives, it provides justification for letting of even the life convicts for short periods, on parole, in order to afford opportunities to such convicts not only to solve their personal and family problems but also to maintain their links with the society. Another objective which this*

> *theory underlines is that even such convicts have right to breathe fresh air, albeit for periods. These gestures on the part of the State, along with other measures, go a long way for redemption and rehabilitation of such prisoners. They are ultimately aimed for the good of the society and, therefore, are in public interest.*
>
> *18. The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. Main purpose of such provisions is to afford to them an opportunity to solve their personal and family problems and to enable them to maintain their links with society. Even citizens of this country have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, without employment prospects, without a fundamental knowledge of the communities to which they will return, and without resources, stand a significantly higher chance of failure. When offenders revert to criminal activity upon release, they frequently do so because they lack hope of merging into society as accepted citizens. Furloughs or parole can help prepare offenders for success.*
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> *(self emphasis supplied)*

14. In light of the above decision, this Court would now proceed to consider the fact as to whether the rejection of the petitioner's prayer, seeking his release on parole, is sustainable in the eyes of law.

15. Alongwith the reply, the statements of Pradhan, Gram Panchayat Kullah and Ward Panch, Baghi-1, Ward

No. 4, have been annexed, wherein, they have supported the request of the petitioner for releasing him on parole and prayed that the petitioner be released on parole. One Surender Kumar, resident of the area, has also stated in similar terms.

16. The ground, upon which, the prayer of the petitioner has been declined by the respondents, is the recommendation made by the District Magistrate, Mandi. The said recommendation has been made on the ground that the presence of the petitioner is dangerous to the security of the State or pre-judicial to the maintenance of public order. No plausible reasons have been given for rejection of the petitioner's request for grant of parole.

17. The prisoners should be allowed to maintain their family and social ties. They should also be given an opportunity to solve their personal and family problems and to enable them to maintain their links with society. For the apprehensions, which have been expressed, in this case, reasonable/stringent conditions can be imposed, in case, the relief, as claimed in the writ petition, is granted to the petitioner.

18. In such situation, in the considered opinion of this Court, rejection order, dated 23rd April, 2025 (Annexure P-3) passed by respondent No. 2, is not sustainable in the eyes of law. As such, the same is quashed and set aside. The prayer, so made in the application, dated 3rd September, 2024 (Annexure R-2/3) is allowed and the petitioner is ordered to be released on parole, for a period of 28 days.

19. Accordingly, the present petition is allowed, in the following terms:

> *(i) Order, dated 23rd April, 2025 (Annexure P-3), rejecting the request of the petitioner for parole, is quashed and set-aside;*
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> *(ii) Respondents are directed to extend the concession of parole to the petitioner, for a period of 28 days, on his furnishing a personal bond in the sum of ₹ 1,00,000/-, with two sureties in the like amount, to the satisfaction of Superintendent of Jail, Model Central Jail, Nahan, District Sirmaur, H.P.;*
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> *(iii) It is made clear that the petitioner shall surrender before Superintendent of Jail, Model Central Jail, Nahan, District Sirmaur, H.P., on expiry of parole period. In case, the petitioner breaches any of the conditions of parole order or creates any law and order problem, then, the respondents are free to cancel the parole and take action against the petitioner, in accordance with law;*
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> *(iv) In peculiar facts and circumstances, of the case, the respondents are at liberty to impose*

any other just and reasonable condition(s), in addition to the conditions mentioned hereinabove, if deemed fit and proper, to meet the ends of justice;

(v) Violation of any of the above conditions shall be treated as a negative factor for consideration of similar prayer, in future.

20. Pending miscellaneous applications, if any, shall also stand disposed of, accordingly.

21. Registry to communicate this order to the Superintendent of Jail, Model Central Jail, Nahan, District Sirmaur, H.P., for compliance.

(Virender Singh)
Judge

October 31, 2025
(rajni)

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