HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Criminal Writ Petition No. 2786/2024

Devilal Alias Devla Alias Deva, S/o Uda @ Udiya , Niwasi Mau Police Thana Ghantali, Distt. Pratapgarh (Raj.) (Central Jail Udaipur)

----Petitioner

Versus

1. State Of Rajasthan, Through Secretariat
2. Collector, Pratapgarh
3. Superintendent, Central Jail Udaipur.

----Respondents

Connected With

D.B. Criminal Writ Petition No. 2785/2024

Vijayraj @ Binjaram, S/o Bagduram Ji Bawari, R/o Lambadiya Sarhad Mohrai, Police Station Jaitaran, District Beawar, Rajasthan (At Present Lodged At Central Jail Jodhpur)

----Petitioner

Versus

1. State Of Rajasthan, Through Secretary Jaipur.
2. Collector, Beawar
3. Supdt Central Jail, Jodhpur.

----Respondents

For Petitioner - Amicus Curiae	:	Mr. Sandeep Bishnoi
For Respondents	:	Mr. N.K. Gurjar, AAG

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE CHANDRA PRAKASH SHRIMALI

Order

06/02/2025

D.B. Criminal Writ Petition No. 2786/2024 :

1. This parole petition has been filed by the petitioner aggrieved of the order dated 22.02.2024, whereby, the prayer made for releasing him on first 20 days' parole has been rejected.

2. Learned Amicus Curiae Mr. Sandeep Bishnoi has put forward the following points for granting first parole to the petitioner :-

(i) The petitioner has completed the total sentence of 8 years, 4 months and 22 days.

(ii) The petitioner does not have any antecedents or extraordinary conditions which could be detrimental to his consideration for parole.

(iii) The petitioner has been denied the parole on the ground that he may return to the village of minor girl and cause anger in the society, whereas a condition can be imposed that he may not go in the vicinity of the house of the victim.

3. Learned AAG opposes the prayer of the petitioner and submits that with the release of the petitioner on parole, there is all possibility that the law and order situation may be disturbed, thus, the Committee has rightly rejected his application for releasing him on 20 days' parole; however, he is unable to refute the factual matrix stated by the learned Amicus Curiae appointed for the petitioner.

4. Heard learned counsel for the parties and perused the material available on record.

5. Having considered the submissions made by learned counsel for the parties, this Court finds that the rejection is mechanical and new parole rule would not applicable in the present case, therefore, the petitioner is entitled to be granted benefit of first parole of 20 days.

6. In view of the above, the petition is allowed. The minutes/order dated 22.02.2024 qua the petitioner is quashed

and set aside and the Superintendent, Central Jail, Udaipur is directed to release the petitioner - Devilal @ Devla @ Deva, S/o Uda @ Udiya, on first 20 days' parole upon his furnishing personal bond in the sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the Superintendent, Central Jail, Udaipur on the usual terms and conditions.

7. The Superintendent, Central Jail, Udaipur shall be at liberty to impose other adequate and reasonable conditions to ensure return of the convict to the custody after availing the parole. The term of parole shall be computed from the date of his actual release.

8. This Court directs that if the petitioner, during the period in which he is released on parole, indulges in any kind of offence or/ and any report is lodged against him of any offence, then, in such event, the parole granted to him shall stand cancelled.

9. It is also ordered that the convict-petitioner shall spend his period of parole at a place, which is away from the victim's residence and he shall not visit the place, where the victim resides.

D.B. Criminal Writ Petition No. 2785/2024 :

1. This parole petition has been filed by the petitioner aggrieved of the order dated 21.10.2024, whereby, the prayer made for releasing him on first 20 days' parole has been rejected.

2. Learned Amicus Curiae Mr. Sandeep Bishnoi has put forward the following points for granting first parole to the petitioner :-

(i) The petitioner has completed the total sentence of 6 years, 11 months and 22 days.

(ii) A vague report has been given by the police stating that the villagers around consume liquor and, therefore, in the influence of somebody, the petitioner may move aimlessly.

(iii) The Social Welfare Department has recommended the parole vide its report dated 26.09.2024.

(iv) The petitioner was earlier released on interim bail for a period of 9 days and successfully abide by the conditions imposed upon him.

3. Learned AAG opposes the prayer of the petitioner; however, he is unable to refute the factual matrix that the petitioner was earlier released on 9 days interim bail and successfully abide by the condition imposed upon him.

4. Heard learned counsel for the parties and perused the material available on record.

5. Having considered the submissions made by learned counsel for the parties, this Court finds that the rejection is mechanical and new parole rule would not applicable in the present case, therefore, the petitioner is entitled to be granted benefit of first parole of 20 days.

6. In view of the above, the petition is allowed. The minutes/order dated 21.10.2024 qua the petitioner is quashed and set aside and the Superintendent, Central Jail, Jodhpur is directed to release the petitioner - Vijayraj @ Binjaram, S/o Bagduram Ji Bawari, on first 20 days’ parole upon his furnishing

personal bond in the sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the Superintendent, Central Jail, Jodhpur on the usual terms and conditions.

7. The Superintendent, Central Jail, Jodhpur shall be at liberty to impose other adequate and reasonable conditions to ensure return of the convict to the custody after availing the parole. The term of parole shall be computed from the date of his actual release.

(CHANDRA PRAKASH SHRIMALI),J (DR.PUSHPENDRA SINGH BHATI),J

29-30-Hanuman/-