IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 20128 of 2025
Reserved on: 12.10.2026
Date of Decision: 04.11.2026
Uploaded on: 04.11.2026

Bharat ...Petitioner

Versus

State of H.P. & Ors. ...Respondents

Coram
Hon'ble Mr Justice Chirag Bhanu Singh, Judge.
Whether approved for reporting?

For the Petitioner	:	Mr. Ashok Kumar Tyagi, Advocate.
For the Respondents	:	Mr. Raj Pal Thakur, Additional Advocate General.

Chirag Bhanu Singh, Judge

By way of the instant writ petition, the present petitioner has invoked the extraordinary writ jurisdiction of this Court under Article 226 of the Constitution of India, seeking a writ of mandamus directing the respondent No. 2 to grant parole to the petitioner, as per the requirement of law.

2. The petitioner, who is a Nepali citizen, has averred that he came to be convicted for the commission of offences

punishable under Sections 396, 460 and 120-B of the Indian Penal Code (IPC), registered vide FIR No. 46 of 2013, at Police Station Rohru, District Shimla, H.P., whereby he was sentenced to undergo rigorous imprisonment for life. The petitioner has already undergone more than 14 years of sentence as on 26.05.2025. He had applied for his temporary release on parole.

3. Additional Director General of Prisons & Correctional Services, Himachal Pradesh, rejected the application of the petitioner vide letter dated 02.09.2025 (Annexure P-7), on the recommendations of the District Magistrate, Auraiya, District Auraiya, Uttar Pradesh, based on a report submitted by the Superintendent of Police, Auraiya.

4. On the basis of Section 3 of the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968, the petitioner was entitled to 42 days of parole in a year. However, his application has been rejected arbitrarily. The conduct of the petitioner in jail has been satisfactory. Therefore, it was

prayed that the respondents be directed to grant parole to the petitioner.

5. While contesting the present petition, the respondents have raised preliminary submissions that the case of the petitioner is governed by the provisions of the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968. As per the rules in vogue, the District Magistrate of the concerned district to which the prisoner belongs, in consultation with the Superintendent of Police, submits a report that the release of the convict is not likely to endanger the security of the State or maintenance of public order, only then the convict is entitled to be released.

6. The respondents have further submitted that the petitioner has already undergone a total sentence of 12 years, 4 months and 20 days as on 19.05.2025. The conduct of the petitioner inside the jail had been found to be satisfactory. The request of the petitioner for parole had been forwarded to the district authorities, i.e. the District Magistrate and Superintendent of Police, Auraiya, District Auraiya, Uttar Pradesh, for their recommendation/verification. The District

Magistrate has not recommended the release of the petitioner, as is clear from the letter dated 23.07.2025 (Annexure R-2/3). As per the report of the concerned District Magistrate, the petitioner is a shrewd criminal and the possibility of the occurrence of a serious offence upon his release on parole cannot be ruled out. Thus, keeping in view the non-recommendation of the district authorities, the parole plea of the petitioner came to be rejected by the respondents vide letter dated 02.09.2025 (Annexure P-7). On merits too, the same contentions were reiterated by the respondents. Hence, it was prayed that the petition be dismissed.

7. I have heard the learned counsel for the parties and gone through the records carefully.

8. It would be apposite to first appreciate the law holding the field till now. The principles for granting parole was vividly laid down by the Hon'ble Supreme Court in ***Asfaq v. State of Rajasthan and Others***, ***[(2017) 15 SCC 55]***. Having examined the celebrated judgments, including ***Sunil Batra (II) v. Delhi Administration***, **(1980) 3 SCC 488**, ***Maneka Gandhi v.***

Union of India*, *[(1978) 1 SCC 248] and ***Charles Sobraj v. Supdt., Central Jail, Tihar, [(1978) 4 SCC 104]***, the Hon'ble Supreme Court has reiterated that if a person commits any crime, it does not mean that by committing a crime he ceases to be a human being and that he can be deprived of those aspects of life which constitute human dignity. Thus, it was held that the mere nature of the offence committed by the convict could not be a factor to deny parole outrightly. Wherever a person convicted has suffered incarceration for a long time, he can be granted temporary parole irrespective of the nature of the offence for which he was sentenced.

9. This Court also, while considering the judgments in ***Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, [*(1981) 1 SCC 608]*, *Kharak Singh v. State of U.P., [AIR 1963 SC 1295]*,** and ***Maneka Gandhi's case [AIR 1978 SC 597]***, has categorically gone on to hold in ***Harbhajan Singh v. State of H.P., [2019 SCC OnLine HP 3599]***, that the nature of the offence alone cannot be a ground to deny parole when the prisoner's conduct shows a tendency to reform himself.

10. A perusal of the record shows that the petitioner had sought parole to visit his sister, Smt. Sita Sai, wife of Rohit Singh, resident of Gura, Police Station Bidhuna, District Auraiya, Uttar Pradesh. The rejection of parole is primarily based upon the reports submitted by the Superintendent of Police, Auraiya, U.P. and the District Probation Officer. Strangely, the District Probation Officer has reported that the possibility of the convict committing an offence again in the event of his release from jail cannot be ruled out as the dispute is still ongoing between the convict and the opposite parties. The Probation Officer, thus, had objected to the grant of parole. Even the Superintendent of Police, Auraiya, U.P. has reported that because of the heinous offence, public opposition to his release is likely, the convict is a shrewd and habitual offender, and the possibility of the occurrence of a serious incident cannot be ruled out.

11. Admittedly, the petitioner stands convicted for having committed an offence at Rohru, District Shimla, Himachal Pradesh. The report of the Probation Officer, Auraiya, therefore, on the face of it, is *ex facie* unsustainable.

Such a report could have come only from the Probation Officer at Rohru, had the petitioner sought permission to visit Rohru on parole. The apprehension of the Superintendent of Police, Auraiya, U.P. also thus seems to be misplaced because the petitioner had sought to visit a place where his antecedents were not even known to any one. Therefore, the question of the public opposing his release seems to have been made just for the heck of it.

12. The competent authority in Himachal Pradesh too mechanically rejected the application after having received the aforesaid two reports. In that sense of the matter, respondent No. 2 indeed has shown complete non-application of mind. The rejection thus cannot be sustained.

13. Reverting to the question that the petitioner was a Nepali citizen and, as such, may abscond in case he is released on parole. The said question has been answered by this Court itself on more than one occasion. It has been held by this Court that stringent conditions can be imposed to ensure that the convict does not jump over the parole, even if he is a person of Nepali descent. This Court in ***Vicky Rana v. State of***

H.P. (CWP No.11238 of 2026, decided on 12.08.2026) and ***Lachhman v. State of Himachal Pradesh and others (CWP No. 4864 of 2025, decided on 12.09.2025)*** has even extended the benefit of parole to the persons of Nepali origin.

14. For all the reasons discussed hereinabove, the present petition is allowed. As a sequel, the order dated 02.09.2025 (Annexure P-7) passed by the Additional Director General of Prisons & Correctional Services, Himahcal Pradesh is quashed and set aside. The petitioner is ordered to be released on parole subject to his furnishing personal bond in the sum of ₹50,000/- with two local sureties of the like amount to the satisfaction of the Superintendent of Jail, along with an undertaking to maintain good conduct during the period of parole and to surrender before the Superintendent of Jail after the expiry of the period of parole. The Probation Officer is also directed to maintain a close watch on the activities of the petitioner during the parole period. The Superintendent of Jail, Model Central Jail Nahan, District Sirmour, Himachal Pradesh would be at liberty to impose any

other suitable condition at the time of the release of the petitioner.

15. The present petition stands disposed of in the aforesaid terms, along with the pending miscellaneous application(s), if any.

(Chirag Bhanu Singh)
Judge

04th October, 2026
(Shamsh Tabrez)