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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (Cr.) No.29 of 2016

Rakesh Shende, S/o Shri Madhukar Shende, aged about 32 years, R/o Bada Ashok Nagar, Gudhiyari, Police Station Gudhiyari, Civil & Revenue District Raipur (C.G.)

Through Dhaniram Khemraj Brahmanekar, S/o Shri Khemraj Brahmanekar, aged about 45 years, R/o Ward No.2, Bada Ashok Nagar, Gudhiyari, Police Station Gudhiyari, Civil & Revenue District Raipur (C.G.)

---- Petitioner
(In Jail)

Versus

1. State of Chhattisgarh, Through its Principal Secretary, Department of Home (Jail), Mahanadi Bhavan, Mantralaya, Naya Raipur, District Raipur (C.G.)
2. The Jail and Correctional Services Chhattisgarh, the Director General Prisons, Jail Road, Raipur, District Raipur (C.G.)
3. The Jail Superintendent, Central Jail, Raipur, District Raipur (C.G.)
4. The District Magistrate, Raipur, District Raipur (C.G.)
5. The Superintendent of Police, Raipur, District Raipur (C.G.)

---- Respondents

For Petitioner:	Mr. Sunil Pillai, Advocate.
For Respondents / State:	Mr. Ashish Surana, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

18/11/2016

1. The object of granting parole is to make necessary efforts to rehabilitate a convict prisoner in the main stream of society based on "Karuna" (compassion) as well as on human consideration.

2. His Lordship A.P. Sen, J, speaking for the Supreme Court, while highlighting the object of parole in the matter of **Poonam Lata v M.L. Wadhawan and others**¹, observed in no uncertain terms that "release on parole is a wing of the reformatory process and is expected to provide opportunity to the prisoner to transform himself into a useful citizen. Parole is thus a grant of partial liberty or lessening of restrictions to a convict prisoner".

3. The concept of "Karuna" with reference to right of a prisoner who stand convicted for a criminal offence has been highlighted by His Lordship V.R. Krishna Iyer, J, speaking for the Supreme Court, in the matter of **Inder Singh and another v. State (Delhi Administration)**² as under: -

"... parole will be allowed to them so that their family ties may be maintained and inner tensions may not further build up. ..."

4. Not only this, His Lordship further emphasized the object of parole and quoted a passage from Lewis Moore with approval.

The said passage reads as under: -

"You cannot rehabilitate a man through brutality and disrespect. Regardless of the crime a man may commit, he still is a human being and has feelings. And the main reason most inmates in prison today disrespect their keepers, is because they themselves (the inmates) are disrespected and are not treated like human beings. Does this type of treatment bring about respect and rehabilitation? No! It only instills hostility and causes alienation toward the prison officials from the inmate or inmates involved.

If you treat a man like an animal, then you must

1 (1987) 3 SCC 347

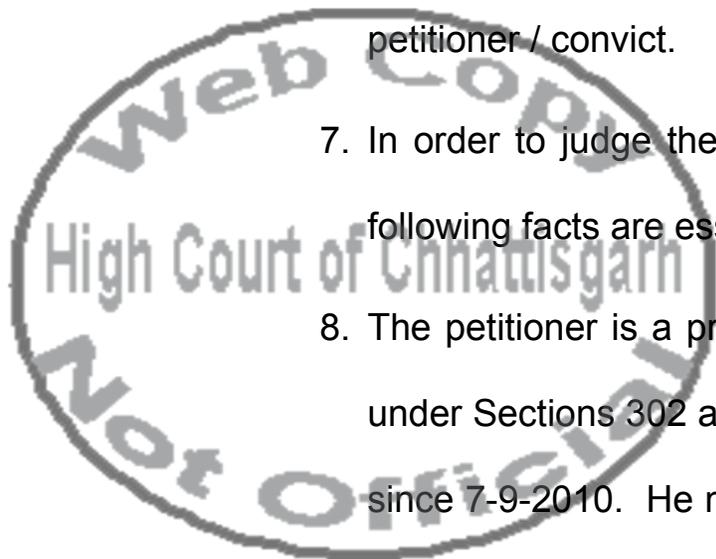
2 AIR 1978 SC 1091

expect him to act like one. For every action, there is a reaction. This is only human nature. And in order for an inmate to act like a human being, you must treat him as such. Treating him like an animal will only get negative results from him. Lewis Moore (71 pg. 72)"

5. Thus, parole has been considered as a part of human dignity which is included in Article 21 of the Constitution of India.
6. With the aforesaid preclude, the question for consideration in the instant case would be whether the learned District Magistrate is justified in rejecting the application for parole filed by the petitioner / convict.

7. In order to judge the correctness of the plea raised at the Bar, following facts are essential to be noticed which state as under: -

8. The petitioner is a prisoner who has been convicted for offence under Sections 302 and 498A of the IPC and is languishing in jail since 7-9-2010. He made an application for grant of leave under Rules 4 and 6 of the Chhattisgarh Prisoner's Leave Rules, 1989 (for short 'the Rules of 1989'). On the said application, the District Magistrate, Raipur called report from the Superintendent of Police and in turn, the Superintendent of Police called report from the Station House Officer and the Station House Officer in turn, submitted adverse report. Relying upon the report submitted by the Station House Officer, the learned District Magistrate by its order dated 10-7-2014 rejected the application holding that the petitioner is not likely to lead peaceful life. Feeling dissatisfied and aggrieved against that order, the instant



writ petition has been filed.

9. Mr. Sunil Pillai, learned counsel appearing for the petitioner, would submit that the application for grant of leave / parole has not been considered in accordance with the Rules of 1989 framed under Section 31-E of the Prisoners Act, 1900. He would further submit that the application has not been considered in touchstone of the Rules and the District Magistrate has neither made proper enquiry nor considered that grant of parole to the petitioner is detriment to the public interest and in a very perfunctory manner, the application for leave has been rejected and therefore the impugned order deserves to be set aside and the petition deserves to be allowed.

10. Mr. Ashish Surana, learned Panel Lawyer appearing for the State/respondent, would however, support the impugned order.

11. I have heard learned counsel for the parties and considered their rival submissions and also gone through the record with utmost circumspection.

12. The Prisoners Act, 1900 was enacted to consolidate the law relating to prisoners confined by order of a Court. Section 31 of the Act relates to grant of leave to the prisoners. Sections 31-A to 31-E of the Act have been inserted by the M.P. Amendment Act by the erstwhile State of Madhya Pradesh which are still applicable in the State of Chhattisgarh and which state as under:-

"31-A. Grant of leave to Prisoners.--(1) Subject to the provisions to this part and to such conditions as may be prescribed, the State Government or any authority to which the State Government may delegate its powers in this behalf may grant leave to any prisoner who has been sentenced to a term of imprisonment of not less than three years, for a period not exceeding twenty one days in a year, excluding the time required for journeys to the first place of his visit immediately after departure from the prison and from the place of last visit to the person (*sic* prison) back.

(2) The provisions of sub-section (1) shall not apply to a prisoner who has been classified as a habitual criminal for the purpose of the rules for the time being in force made under the [Prisons Act](#), 1894 (IX of 1894) and who has more than three previous convictions.

(3) Leave shall not be admissible to a prisoner during a year under sub-section (1):--

(i) for more than two occasions;

(ii) for a period of less than ten days; and

(iii) unless a period of three months has elapsed since the expiration of leave last availed of during the year and the commencement of the leave applied for.

(4) No prisoner shall be granted leave under sub-section (1), unless,--

(a) he has at the time of grant of leave served one-half of his sentence including remission, or a period of not less than two years of his sentence, including remission, whichever is less;

(b) he has not been punished for a prison offence under [Section 46](#) of the [Prisons Act](#), 1894 (IX of 1894) during twelve months preceding the date of commencement of the leave applied for.

(5) The period of leave of a prisoner under sub-section (1) shall count towards the total period of his sentence.

(6) The authority directing the grant of leave to any



prisoner under sub-section (1) may require him to enter into a bond with or without sureties for due observance of conditions specified in the direction.

(7) If any prisoner granted leave under sub-section (1) fails to fulfill any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to penalty thereof.

(8) If a prisoner has violated the conditions of leave or bond, he shall not be entitled to leave under sub-section (1) during the remaining period of his sentence.

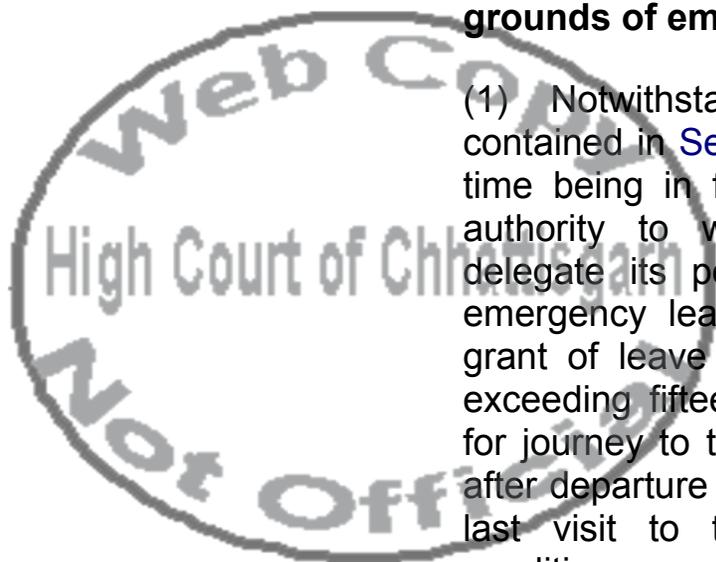
31-B. Power to grant leave to prisoners on grounds of emergency.--

(1) Notwithstanding anything to the contrary contained in [Section 31-A](#) or in any other law for the time being in force, the State Government or any authority to which the State Government may delegate its powers in this behalf, may sanction emergency leave to a prisoner who is entitled to grant of leave under [Section 31-A](#) for a period not exceeding fifteen days, excluding the time required for journey to the first place of his visit immediately after departure from the prison and from the place of last visit to the prison back, subject to such conditions as may be prescribed and may, at any time cancel the leave.

(2) Emergency leave under sub-section (1) may be granted to a prisoner in case of death of his or her spouse, son, daughter, father, mother, brother, sister, paternal or maternal grand father or grand mother or in case of his or her own marriage or the marriage of his or her son, daughter, brother and sister.

(3) The authority directing the grant of emergency leave to any prisoner under sub-section (1) may require him to enter into a bond with or without sureties for due observance of conditions specified in the direction.

(4) If any prisoner granted emergency leave under sub-section (1) fails to fulfill any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be



declared to be forfeited and any person bound thereby shall be liable to penalty thereof.

(5) No prisoner shall be granted emergency leave under sub-section (1) if he has been punished for a prison offence under [Section 46](#) of the Prisons Act, 1894 (IX of 1894), during twelve months proceeding the date of commencement of the leave applied for.

(6) The leave under sub-section (1) cannot be claimed as a matter of right.

(7) The period of leave under sub-section (1) shall not count towards the total period of his sentence.

31-C. Surrender by prisoner after the leave period.--

(1) On the expiry of the period for which a prisoner was released on leave under sub-section (1) of [Section 31-A](#) or an emergency leave under sub-section (1) of [Section 31-B](#), he shall surrender himself to the officer-in-charge of the prison from which he was released.

(2) If a prisoner does not surrender himself as required by sub-section (1), he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence.

31-D. Penalty:--Any prisoner who does not surrender himself as required by sub-section (1) of [Section 31-C](#) shall be liable upon conviction to be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

31-E. Power to make rule :-- (1) The State Government may make rules for carrying out the purposes of this part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:--

(a) procedure to be followed in respect of the proceedings for grant of leave of emergency leave to prisoners;

(b) the conditions for grant of leave or emergency leave to prisoners under sub-section (1) of [Section 31-A](#), or under sub-section (1) of [Section 31-B](#), respectively, including conditions for the supervision during the period of such leave;

(c) travelling allowances for prisoners during the period of leave;

(d) restrictions on the movement of prisoners during the period of leave; and

(e) cancellation of leave any emergency leave or forfeiture of bond in case of violation of conditions of leave."

Section 31-E of the Prisoners Act is the power of the State Government to make rules for carrying out the purposes of the Prisoners Act, as power to consider and grant parole to convicted prisoner is essentially the function of executive.

13. In exercise of the power conferred by Section 31-E of the Prisoners Act, the erstwhile State of Madhya Pradesh had enacted the Madhya Pradesh Prisoner's Leave Rules, 1989 which is also applicable in the State of Chhattisgarh as duly adopted. Rule 4 of the Rules of 1989 provides for conditions of leave. Rule 6 provides for Sanctioning Authority for first leave and a Note has also been appended to it. Rules 4 and 6 of the Rules of 1989 state as under: -

"4. Conditions of Leave.--The prisoners shall be granted leave under sub-section (1) of Section 31-A of the Act on the following conditions, namely :--

(a) He fulfills the conditions laid down in Section 31-A of the Act;

(b) He has not committed any offences in jail between the date of application for leave and receipt of the order of such leave;

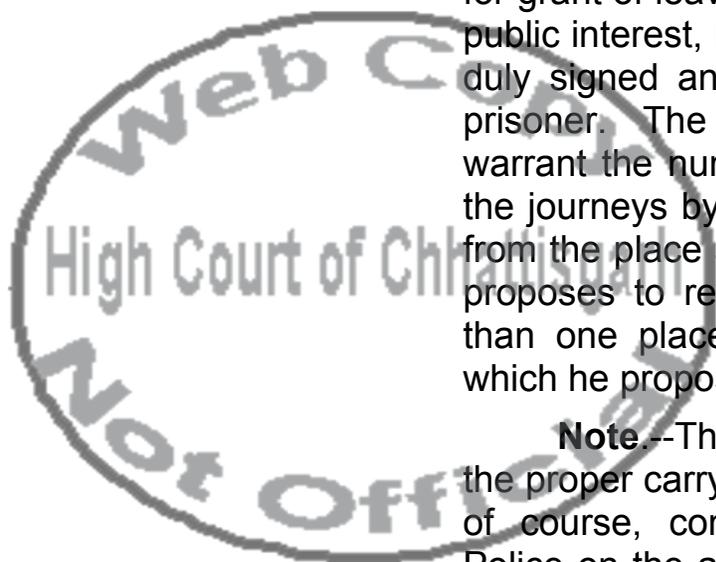
(c) The releasing authority must be satisfied that the leave may be granted without detriment to the public interest;

(d) He gives in writing to the Releasing Authority the place or places which he intends to visit during the period of his leave and undertake not to visit any other place during such period without obtaining prior permission of the Releasing Authority in that behalf; and

(e) He should furnish security to the satisfaction of the Releasing Authority if such security is demanded by the Releasing Authority.

6. Sanctioning Authority for first leave.--(a) If the District Magistrate, after making such enquiry as he may consider necessary, is satisfied that the request for grant of leave can be granted without detriment to public interest, he shall issue to the Superintendent a duly signed and sealed warrant in Form 'A' to the prisoner. The District Magistrate shall enter in the warrant the number of days that will be required for the journeys by the shortest practicable route to and from the place at which during his leave the prisoner proposes to reside or if he proposes to visit more than one place, the farthest place from the Jail which he proposed to visit.

Note.--The District Magistrate is responsible for the proper carrying out of these instructions. He may of course, consult the District Superintendent of Police on the advisability of granting the leave. The Superintendent of Police should also obtain the opinion of the Gram Panchayat of the village, where the prisoner resided before conviction and send to the District Magistrate along with his report. But the responsibility for the action is that of the District Magistrate. He should use his discretion and should refuse to grant leave only in cases in which he is satisfied that release is fraught with danger to the public safety. Security should be demanded only when it is really necessary, for example, when there is reasonable apprehension that the prisoner will break leave. When security is required, the District Magistrate of the place where the surety resides should be asked by the releasing District Magistrate to accept the surety and not call the surety to his own headquarters. If the prisoner intends to visit another district, where his near relatives reside, the concerning District Magistrate shall make necessary enquiries from the District Magistrate of that District



before sanctioning the leave.

(b) If the District Magistrate considers that the grant of leave to the prisoner is undesirable in the public interest, he shall intimate his opinion to the Superintendent, who shall inform the prisoner that his request has been rejected."

14. On careful reading of the aforesaid provisions, it is quite vivid that the petitioner prisoner is eligible to be considered for grant of temporary leave in accordance with Section 31-A of the Prisoners Act, if he has been convicted and sentenced to a term of imprisonment of not less than three years, for a period not exceeding twenty-one days in a year, excluding the time required for journeys to the first place of his visit immediately after departure from the prison and from the place of last visit to the prison back. By virtue of Rule 4(c) of the Rules of 1989, the releasing authority, who is the District Magistrate, has to be satisfied that the leave may be granted without detriment to the public interest. Note appended to Rule 6 would show that the District Magistrate is the authority responsible for proper carrying out of the Rules of 1989, he has to make enquiry and has to use his discretion and should refuse to grant leave only in cases in which he is satisfied that release is fraught with danger to the public safety.

15. At this stage, it would be expedient to notice the binding observations of Their Lordships of the Supreme Court highlighting the concept of parole in the matter of **Dadu alias Tulsidas v. State of Maharashtra**³ while considering the

³ (2000) 8 SCC 437

constitutional validity of Section 32-A of the NDPS Act, which read as under: -

"6. Parole is not a suspension of sentence. The conviction continues to be serving the sentence despite grant of parole under the statute, rules, jail manual or the Government Order. "Parole" means the release of a prisoner temporarily for a special purpose before the expiry of a sentence, on the promise of good behaviour and return to jail. It is a release from jail, prison or other internment after actually being in jail serving part of sentence."

16. It is extremely pertinent to notice the sea difference between parole and bail. Parole is an administrative action and it is a temporary release whereas bail is suspension of sentence in case of conviction. A Constitution Bench of the Supreme Court in the matter of Sunil Fulchand Shah v. Union of India and others⁴ has observed as under in paragraphs 24, 25 and 26: -

"24. Bail and parole have different connotations in law. Bail is well understood in criminal jurisprudence and Chapter XXXIII of the Code of Criminal Procedure contains elaborate provisions relating to grant of bail. Bail is granted to a person who has been arrested in a non-bailable offence or has been convicted of an offence after trial. The effect of granting bail is to release the accused from internment though the court would still retain constructive control over him through the sureties. In case the accused is released on his own bond such constructive control could still be exercised through the conditions of the bond secured from him. The literal meaning of the word "bail" is surety. In *Halsbury's Laws of England*⁵, the following observation succinctly brings out the effect of bail:

The effect of granting bail is not to set the defendant (accused) at liberty but to release him from the custody of law and to entrust him to the custody of his sureties who are bound to produce

4 (2000) 3 SCC 409

5 Halsbury's Laws of England, 4th Edn., Vol. 11, para 166.

him to appear at his trial at a specified time and place. The sureties may seize their principal at any time and may discharge themselves by handing him over to the custody of law and he will then be imprisoned.

25. "Parole", however, has a different connotation than bail even though the substantial legal effect of both bail and parole may be the release of a person from detention or custody. The dictionary meaning of "parole" is:

The Concise Oxford Dictionary - (New Edition)

"The release of a prisoner temporarily for a special purpose or completely before the expiry of a sentence, on the promise of good behaviour; such a promise; a word of honour."

Black's Law Dictionary - (6th Edition)

"Release from jail, prison or other confinement after actually serving part of sentence; Conditional release from imprisonment which entitles parolee to serve remainder of his term outside confines of an institution, if he satisfactorily complies with all terms and conditions provided in parole order."

According to The Law Lexicon⁶, "parole" has been defined as:

"A parole is a form of conditional pardon, by which the convict is released before the expiration of his term, to remain subject, during the remainder thereof, to supervision by the public authority and to return to imprisonment on violation of the condition of the parole."

According to Words and Phrases⁷:

" 'Parole' ameliorates punishment by permitting convict to serve sentence outside of prison walls, but parole does not interrupt sentence. People ex rel Rainone v. Murphy⁸.

'Parole' does not vacate sentence imposed, but is merely a conditional suspension of sentence. Wooden v. Goheen⁹.

A 'parole' is not a 'suspension of sentence',

6 P. Ramanatha Aiyar's The Law Lexicon with Legal Maxims, Latin Terms and Words & Phrases, p. 1410

7 Words & Phrases (Permanent Edition), Vol. 31, pp. 164, 166, 167, West Publishing Co.

8 135 NE 2d 567, 571, 1 NY 2d 367, 153 NYS 2d 21, 26

9 Ky, 255 SW 2d 1000, 1002

but is a substitution, during continuance of parole, of lower grade of punishment by confinement in legal custody and under control of warden within specified prison bounds outside the prison, for confinement within the prison adjudged by the court. *Jenkins v. Madigan*¹⁰.

A 'parole' does not suspend or curtail the sentence originally imposed by the court as contrasted with a 'commutation of sentence' which actually modifies it."

26. In this country, there are no statutory provisions dealing with the question of grant of parole. The Code of Criminal Procedure does not contain any provision for grant of parole. By administrative instructions, however, rules have been framed in various States, regulating the grant of parole. Thus, the action for grant of parole is generally speaking, an administrative action. The distinction between grant of bail and parole has been clearly brought out in the judgment of this Court in [State of Haryana v. Mohinder Singh](#)¹¹ to which one of us (Wadhwa, J.) was a party. That distinction is explicit and I respectfully agree with that distinction."

17. Very recently, in the matter of **State of Gujarat and another v.**

Lal Singh alias Manjit Singh and others¹², the Supreme Court has reiterated the law laid down in **Sunil Fulchand Shah** (supra) and has delineated the scope of jurisdiction while granting temporary parole as under: -

"33. So far as direction for grant of parole is concerned, we find that the learned Judge has directed parole to be granted for three months forthwith. In *Sunil Fulchand Shah v. Union of India* (supra) the Constitution Bench while dealing with the grant of temporary release or parole under Sections 12(1) and Section 12(1-A) of the Conversation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA Act) had observed that the exercise of the said power is administrative in character but it does not affect the power of the High Court under Article 226 of the Constitution.

10 CA Ind, 211 F 2d 904, 906

11 (2000) 3 SCC 394 : JT (2000) 1 SC 629

12 (2016) 8 SCC 370

However, the constitutional court before directing the temporary release where the request is made to be released on parole for a specified reason and for a specified period should form an opinion that request has been unjustifiably refused or where the interest of justice warranted for issue of such order of temporary release. The Court further ruled that jurisdiction has to be sparingly exercised by the Court and even when it is exercised, it is appropriate that the Court should leave it to the administrative or jail authorities to prescribe the conditions and terms on which parole is to be availed of by the detenu."

18. Aforesaid enunciation of law would bring me back to the facts of the present case to be considered as to whether the learned District Magistrate is justified in rejecting the application for parole.

19. It is well settled law that all aspects of criminal justice fall under the umbrella of Articles 14, 19 and 21 of the Constitution of India. It is also well settled that grant of parole being essentially an executive function, it is for the Government to consider the request made by the convict for the purpose and to pass an appropriate order on it. If, however, the order passed by the Government declining parole is based upon irrelevant ground or extraneous consideration or is otherwise wholly unsustainable being an order which no reasonable person could in the facts and circumstances of case have passed or is totally perverse, it is open to the court to exercise its power under Article 226 of the Constitution of India to set aside the order and direct the release of a convict on parole.

20. It appears from the record that on application filed by the

petitioner before the District Magistrate, Raipur, the District Magistrate forwarded it to the Superintendent of Police and the Superintendent of Police, in turn, made enquiry through the Station House Officer who simply apart from other formalities submitted report on 4-3-2014 that the petitioner is not likely to lead peaceful life which was in turn, relied upon by the Superintendent of Police and ultimately, came to be relied upon by the District Magistrate and only on that basis the District Magistrate in a cyclostyle form only adding the name and other particulars of the petitioner, has passed the impugned order vide Annexure P-3 which states as under: -

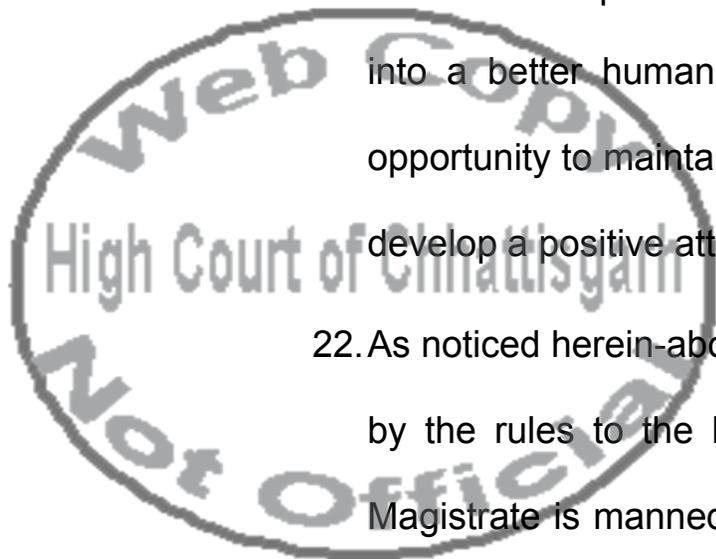
उपरोक्त विषयांतर्गत संदर्भित पत्र में पुलिस अधीक्षक, रायपुर से अभिमत प्राप्त गया। उन्होंने अपने पत्र क्रमांक/पुअ/डीपीओ/राय/02/14 दिनांक 08.05.2014 में बंदी क्रमांक 9826/125 नाम राकेश शेण्डे आत्मज अशोक कुमार शेण्डे थाना गुढियारी जिला रायपुर द्वारा शान्तमय, जीवन बिताने की संभावना नहीं है, अतः बंदी को अस्थाई मुक्ति पर छोड़ने की अनुशंसा नहीं जाती है, प्रतिवेदित किये हैं।

अतः बंदी का प्रकरण नस्तीबद्ध किया जाता है, तत्संबंध में बंदी को सूचित करें।

21. It is important to mention that power to grant parole is a purely administrative decision, however, the person who has been entrusted to grant leave (parole) is the District Magistrate in the instant case. The executive must exercise the discretion vested in it judiciously and not arbitrarily and keeping in mind the objectives of parole and also taking into consideration that

regardless of the crime a man may commit, he still is a human being and has human feelings, particularly keeping the object of parole as highlighted by the Supreme Court in Inder Singh (supra) and keeping in view that the nature and length of sentence or magnitude of the crime committed by the prisoners may not be relevant for the purpose of grant of parole and further keeping in view that parole was introduced to encourage responsible behaviour in rehabilitating the prisoners and at the same time to provide them an opportunity to reform themselves into a better human being and also to provide them with an opportunity to maintain their social ties and allow the prisoners to develop a positive attitude, self-confidence and interest in life.

22. As noticed herein-above, the power of parole has been conferred by the rules to the District Magistrate and the post of District Magistrate is manned in the State of Chhattisgarh by a member of Indian Administrative Service. Therefore, the District Magistrate is required to exercise the power to consider the application for grant of parole. He has to take into consideration the object and need to grant parole to the convicted prisoners by applying their mind and come to a conclusion judiciously. The order passed by the District Magistrate in the instant case would show the complete non-application of mind, as by a cyclostyle order only name and number of prisoner has been inserted and it has been signed by the Additional District Magistrate. The manner in which the order has been passed by the District



Magistrate in a mechanical manner is suggestive of betrayal of the confidence which the rule making authority reposed in the District Magistrate in conferring upon him to exercise the power to grant parole.

23. At this stage, it would be appropriate to notice the following binding observation made by the Supreme Court in the matter of

Tarlochan Dev Sharma v. State of Punjab and others¹³: -

"16. In the system of Indian democratic governance as contemplated by the Constitution, senior officers occupying key positions such as Secretaries are not supposed to mortgage their own discretion, volition and decision-making authority and be prepared to give way or being pushed back or pressed ahead at the behest of politicians for carrying out commands having no sanctity in law. The Conduct Rules of Central Government Services command the civil servants to maintain at all times absolute integrity and devotion to duty and do nothing which is unbecoming of a government servant. No government servant shall in the performance of his official duties, or in the exercise of power conferred on him, act otherwise than in his best judgment except when he is acting under the direction of his official superior. ..."

24. To say the least, what has been done is without due application of mind and it nowhere reflects that the concept of parole, which is based on "Karuna" (compassion), was there in the mind of the District Magistrate while exercising the power, particularly it has not been shown that the convict has any criminal antecedents or he is a hardened criminal and is likely to abscond if he is released on parole or is likely to involve in similar nature of offence. Though the petitioner convict is not the only son, but his mother's age is 50 years. Not only this, no such proper enquiry

13 (2001) 6 SCC 260

has been made by the District Magistrate to find out whether release of the petitioner is detriment to public interest. Even no finding has been recorded by the District Magistrate that release of the petitioner is detriment to public interest. Simply, in a very casual and perfunctory manner, such an application has been decided which is clearly impermissible in law and cannot be approved.

25. Consequently, I am of the considered opinion that the order passed by the Additional District Magistrate, Raipur (Annexure P-3) deserves to be quashed in exercise of jurisdiction of this Court under Article 226 of the Constitution of India and is accordingly quashed. It is directed that the respondents shall consider the case of the petitioner to grant him the privilege of release / parole, in accordance with law indicated herein-above within forty days from the date of production of a copy of this order.

26. The writ petition is allowed to the extent indicated herein-above.

There shall be no order as to costs.

27. Before parting with this file, this Court appreciates the assistance rendered by Mr. Ashish Surana, learned Panel Lawyer, who on a short notice has brought into the notice of this Court relevant statutory law as well as case law, which has assisted this Court to reach to above-stated conclusion.

28. A copy of this order be sent to the Principal Secretary (Home) for

onward circulation to the District Magistrates of the State for information and strict compliance.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

