
(2013) 02 RAJ CK 0178

In the Rajasthan High Court

Case No : Civil Writ Petition (Parole) No. 20090 of 2012

Madan Lal

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 15-02-2013

Acts Referred:

Citation : (2013) 02 RAJ CK 0178

Hon'ble Judges : Narendra Kumar Jain, J

Bench : Single Bench

Advocate : Anshuman Saxena, for the Appellant; Sanjeev Kumar Mahala, Additional Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

Narendra Kumar Jain-II, J.—Petitioner, convict-prisoner, Madan Lal has approached this Court through his father Harsahai by way of this writ petition for grant of first regular parole of 20 days. The convict-prisoner, Madan Lal is serving the sentence of seven years rigorous imprisonment under Sections 307 and 323 IPC awarded by Additional District & Sessions Judge (F.T.), Bandikui, District Dausa vide judgment dated 07.07.2011 in Sessions Case No. 09/2008, against which S.B. Criminal Appeal No. 684/2011 was filed by the convict-petitioner, which is pending before this Court. This writ petition, seeking 20 days regular first parole in accordance with the provisions of Rajasthan Prisoners (Release on Parole) Rules, 1958 (hereinafter referred to as "the Rules of 1958"), has been filed by the petitioner stating in the petition that the petitioner has completed more than one year nine months of his sentence without remission and he has completed more than 1/4th of this sentence and is eligible to have his case considered for grant of regular first parole of 20 days under the Rules of 1958, but the petitioner's application is not being forwarded, therefore, no option is left to the petitioner, but to approach this Court for seeking direction for consideration of his application for grant of regular first parole of 20 days. Learned counsel for the petitioner vehemently contended that conduct and

behaviour of the petitioner in jail is good and there is no adverse remarks against the petitioner.

2. As per reply to writ petition filed on behalf of the respondents, it is stated that as per the decision rendered by Division Bench of this Court dated 15.06.2012 in the case of Umesh Kumar Singh @ Munna Singh v. State of Rajasthan & 12 Others (S.B. Civil Writ Petition (Parole) No. 2138/2011), during pendency of an appeal against conviction and sentence, the convict-prisoner cannot be permitted to have a parole under an administrative order and in the light of aforesaid decision, the State Government has issued Circular dated 30.08.2012. As per the reply to writ petition, the petitioner has already served sentence for a term of two years two months and eight days including remission as on 31.12.2012. Copy of latest nominal roll and factual report dated 04.02.2013 have also been annexed with the reply as Annexure R/3 and R/4.

3. Suffice to note here that Superintendent, Central Jail, Jaipur has not given any adverse report against the convict-petitioner. It is also admitted fact that the petitioner has already served more than 1/4th of his sentence, therefore, I do not want to make any comment on the aforesaid decision rendered by the Division Bench of this Court, because the matter is still pending before the Larger Bench of this Court. However, in view of the object and spirit of the Rules of 1958, parole to a convict-prisoner is a statutory right and that cannot be denied without there being any legal foundation.

4. Having considered all the facts of the case, I am satisfied that reason given for denying parole to the convict-petitioner is only the decision rendered by Division Bench of this Court. It is well settled that the parole requires to keep a convict-prisoner in regular stream of the society and for the purpose of rehabilitation. In my considered opinion, such a valuable right cannot be denied for the above-mentioned reason. In such circumstances, I deem it appropriate to accept this writ petition for grant of regular first parole of 20 days to the convict-petitioner. Accordingly, this writ petition is allowed. The convict-petitioner Madan Lal S/o. Shri Harsahai, at present serving sentence in Central Jail, Jaipur be released on regular parole for a term of 20 days provided he furnishes a personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousands Only) along with two sureties of Rs. 25,000/- (Rupees Twenty Five Thousands Only) each to the satisfaction of the Superintendent, Central Jail, Jaipur, who shall impose adequate conditions as per the Rules of 1958 to secure the return of the petitioner. It is made clear that the parole term shall be counted from the date of actual release of the convict-petitioner.