

(2015) 07 SHI CK 0115
In the High Court Of Himachal Pradesh
Case No : Criminal M.M.O. No. 62 of 2015

Parat Singh

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 15-07-2015

Acts Referred:

Constitution of India, 1950 — Article 227
Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 302

Citation : (2015) 2 ShimLC 1081

Hon'ble Judges : Piar Singh Rana, J.

Bench : Single Bench

Advocate : Vinod Kumar, Advocate, for the Appellant; M.L. Chauhan, Additional Advocate General, for the Respondent

Final Decision : Dismissed

Judgement

Piar Singh Rana, J.—Present petition is filed under Section 482 Cr.P.C. read with Article 227 of the Constitution of India for grant the parole of 42 days. It is pleaded that petitioner is citizen of India and is serving sentence at Modern Central Jail Nahan. It is pleaded that petitioner was appointed as Branch Manager on dated 6.12.1990 and was posted at branch office at Paonta Sahib. It is further pleaded that petitioner was working against the regular post but due to ill-luck of petitioner he was involved in criminal offence punishable under Section 302 IPC vide FIR No. 193 dated 20.5.2004. It is pleaded that petitioner at present is undergoing the sentence at Central Jail Nahan under Section 302 IPC since May. 2004 and petitioner applied for parole of 42 days only to look after his old father aged 85 years who is generally bed ridden and two children aged 10 and 5 years. It is pleaded that petitioner has sought the parole of 42 days or temporary release from jail for a period of six months. It is pleaded that petitioner will abide by all terms and conditions imposed by Court. Prayer for acceptance of petition sought. Per contra response filed on behalf of the non-petitioners pleaded therein that petitioner is governed under Himachal Pradesh

Good Conduct Prisoners (Temporary Release) Act 1968. It is pleaded that parole is granted as per recommendations of District Magistrate after consulting the Superintendent of Police. It is pleaded that petitioner has been sentenced to life imprisonment under Section 302 IPC by learned Sessions Judge Sirmour at Nahan and at present petitioner is undergoing the sentence at Model Central Jail Nahan. It is pleaded that vide letter No. 4-62/2008-Jails dated 31.3.2014 parole of 42 days was sanctioned in favour of petitioner and petitioner was released from jail for the period of 42 days w.e.f. 1.11.2014 to 12.12.2014 and was due to surrender in jail on 13.12.2014 but thereafter petitioner submitted another application dated 20.11.2014 for extension of parole for 42 days to look after his ailing father which was rejected by non-petitioner No. 2 vide wireless message No. 4-62/2008-Jails dated 16.12.2014. It is pleaded that petitioner is not legally entitled to be released on parole. Prayer for dismissal of petition sought.

2. Court heard learned Counsel appearing for the petitioner and heard learned Additional Advocate General appearing on behalf of non-petitioners and also perused the entire record carefully.

3. Following points arise for determination in present case:--

"1. Whether petition filed by the petitioner under Section 482 Cr.P.C. read with Article 227 of Constitution of India for grant of parole of 42 days or temporary release from jail for a period of six months is liable to be accepted as mentioned in memorandum of grounds of petition?

2. Final Order."

Reasons for findings on Point No. 1.

4. Submission of learned Advocate appearing on behalf of petitioner that petitioner is legally entitled to release on parole to look after his old father aged 85 years who is bed ridden and to look after his minor children aged 10 and 5 years is rejected being devoid of any force for the reasons hereinafter mentioned. It is proved on record that parole of 42 days was granted to the petitioner w.e.f. 1.11.2014 to 12.12.2014. Court is of the opinion that after conviction all fundamental rights of the convicted person granted under the Constitution of India are suspended and after conviction convicted is governed by H.P. Good Conduct Prisoners (Temporary Release) Act 1968. In view of the fact that petitioner had already availed the facility of 42 days parole w.e.f. 1.11.2014 to 12.12.2014 and in view of the fact that petitioner is convicted under Section 302 IPC for life imprisonment Court is of the opinion that it is not expedient in the ends of justice to release the petitioner on parole on the ground mentioned in petition. Court is of the opinion that in view of the conviction of petitioner under Section 302 IPC it is not expedient in the ends of justice to release the petitioner on parole in the interest of State and general public immediately after availing benefit of parole of 42 days. Point No. 1 is answered in negative.

Point No. 2 (Final Order)

In view of findings on point No. 1 petition filed under Section 482 Cr.P.C. read with Article 227 of Constitution of India is rejected. Petition is disposed of. All pending miscellaneous application(s) if any also stands disposed of.