

(2025) 11 SHI CK 1870

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 14193 Of 2025

Vinod Kumar

APPELLANT

Vs

State Of H.P. And Others

RESPONDENT

Date of Decision : 11-11-2025

Acts Referred:

Constitution Of India, 1950 — Article 21
Prisoners Act, 1900 — Section 2, 3, 4
Protection Of Children From Sexual Offences Act, 2012 — Section 4, 6
Indian Penal Code, 1860 — Section 302, 506

Citation : (2025) 11 SHI CK 1870

Hon'ble Judges : Rakesh Kainthla, J

Bench : Single Bench

Advocate : Pranav Kaushal, Prashant Sen

Final Decision : Disposed Of

Judgement

Rakesh Kainthla, J

1. The petitioner has filed the present petition seeking a writ of certiorari for quashing the order dated 10.6.2025 and a writ of mandamus for directing the respondents to release the petitioner on parole for four weeks. It has been asserted that the petitioner has undergone one year, 08 months and 19 days of total substantive sentence as on 3.7.2025. He applied for parole to carry out agricultural work. Gram Panchayat Hiran issued a No Objection Certificate for granting parole to the petitioner. The petitioner's application was forwarded to the District Magistrate, Kangra, at Dharamshala; however, he did not recommend the parole, and the authority rejected the petitioner's application on 10.6.2025. The rejection of the application is illegal, arbitrary and discriminatory and violative of the H.P. Good Conduct Prisoners (Temporary Release) Act, 1968 (Prisoners Act) and the Rules framed thereunder. The petitioner has to maintain ties with society, and the objection raised by the victim's family cannot be a reason for rejection of the parole. Hence, the present petition.

2. The petition is opposed by respondents No.1 to 3 by filing a reply, making a preliminary submission regarding the lack of maintainability. It was asserted that the prisoners are being released on parole as per Sections 3 and 4 of the Prisoners Act and the Rules framed thereunder. A convict is not entitled to parole if the District Magistrate is satisfied that he is likely to endanger the security of the State or the maintenance of public order. The petitioner was convicted by learned Additional Sessions Judge (Fast Track Court), Special Judge, POCSO on 22.4.2024 and was sentenced to undergo simple imprisonment for 10 years, pay fine of ₹ 5,000/- with default sentence for the commission of an offence punishable under Section 4 of the Protection of Children from Sexual Offences Act (POCSO) and simple imprisonment for one year and fine of ₹ 1,000/- with default sentence for the commission of offence punishable under Section 506 of IPC. The petitioner had undergone one year, 07 months and 18 days of imprisonment as on 5.9.2025. The petitioner applied for 42 days' parole. His application was sent to the District Magistrate and Superintendent of Police. They conducted an inquiry and did not recommend the parole because of the threat to the victim and her family members. The Releasing Authority is bound to reject the request for parole in case the District Magistrate does not recommend the release. Since the District Magistrate had not recommended the release, therefore, the petitioner's application for parole was rightly rejected.

3. The respondent no. 5 filed a separate reply making preliminary submissions regarding the lack of maintainability, the petitioner having concealed material facts from the Court, and the denial of the parole being as per the provisions of the Prisoners Act and the Rules. It was asserted that the application for parole was processed by the competent authorities as per law. The recommendation from the District Magistrate was based on a detailed and reasoned report received from the Superintendent of Police, who had supplied the specific and germane reasons for denying the parole. The victim's father stated that granting parole to the petitioner would endanger the victim's safety. The power of parole has to be exercised cautiously after balancing the prisoners' rights with the public order and the protection of the victims. Therefore, it was prayed that the present petition be dismissed.

4. I have heard Mr. Pranav Kaushal, learned Legal Aid Counsel for the petitioner, and Mr. Prashant Sen, learned Deputy Advocate General, for the respondent-State.

5. Mr. Pranav Kaushal, learned counsel for the petitioner, submitted that the parole application could not have been rejected on the ground that the victim's family had objected to the petitioner's release on parole. The application could have been rejected only on the ground that the release of the petitioner would be prejudicial to the security of the State or maintenance of public order. The releasing authority did not apply its independent mind regarding the petitioner's release on parole. Therefore, it was prayed that the present petition be allowed and the petitioner be released on parole. He relied upon Sachin Kumar Vs. State

of H.P. 2025:HHC:31339, Gopal Singh Vs. State of H.P. and others CWP No. 5281 of 2023, decided on 22.9.2023, Alam Singh @ Avtar @ Tari Vs. State of H.P. and others, CWP No. 2519 of 2023, decided on 27.6.2023, Jagat Ram Vs. State of H.P. and others 2020:HHC:2891-DB and Yashpal @ Jaspal @ Mintu Vs. State of H.P. and others 2021:HHC:4432-DB in support of his submission.

6. Mr Prashant Sen, learned Deputy Advocate General, for the respondent-State, submitted that the victim's family members ad opposed the parole on the ground that the petitioner's presence would compromise the victim's safety. Th s was a relevant consideration. The parole was denied after due application of mind. Therefore, he prayed that the present petition be dismissed.

7. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

8. It was laid down by the Hon'ble Supreme Court in Asfaq v. State of Rajasthan, (2017) 15 SCC 55: (2018) 1 SCC (Cri) 390: 2017 SCC OnLine SC 1092, that parole grants an opportunity to the convict to maintain his links with society. Convicts must breathe fresh air for at least some time. The parole should not be denied to a convict if he maintains good conduct during incarceration and shows a tendency to reform himself. It was observed at page 60: -

"10. In the first instance, it w uld be necessary to understand the meaning and purpose of the grant of parole. It would be be er understood when considered in contrast with fu lough. These terms have been legally defined and j dicially explained by the courts from time to time.

11. There is a subtle distinction between parole and furlough. A parole can be defined as the conditional release of prisoners, i.e. an early release of a prisoner, conditional on good behaviour and regular reporting to t e authorities for a set period of time. It can also be defined as a form of conditional pardon by which the convict is released before the expiration of his term. Thus, the parole is granted for good behaviour on the condition that the parolee regularly reports to a supervising officer for a specified period. Such a release of the prisoner on parole can also be temporary on some basic grounds. In that eventuality, it is to be treated as a mere suspension of the sentence for the time being, keeping the quantum of sentence intact. Release on parole is designed to afford some relief to the prisoners in certain specified exigencies. Such paroles are normally granted in certain situations, some of which may be as follows:

(i) a member of the prisoner's family has died or is seriously ill, or the prisoner himself is seriously ill; or

(ii) the marriage of the prisoner himself, his son, daughter, grandson, granddaughter, brother, sister, sister's son or daughter is to be celebrated; or

(iii) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation of his land or his father's undivided land actually in possession of the pris ner; r

- (iv) it is desirable to do so for any other sufficient cause;
- (v) parole can be granted only after a portion of the sentence is already served.
- (vi) if conditions of parole are not abided by, the parolee may be returned to serve his sentence in prison; such conditions may be such as those of committing a new offence, and
- (vii) parole may also be granted on the basis of aspects related to the health of the convict himself.

12. Many State Governments have formulated guidelines on parole in order to bring out objectivity to the decision-making and to decide whether parole needs to be granted in a particular case or not. Such a decision in those cases is taken in accordance with the guidelines framed. Guidelines of some of the States stipulate two kinds of parole, namely, custody parole and regular parole. "Custody parole" is generally granted in emergent circumstances, like:

- (i) death of a family member;
- (ii) marriage of a family member;
- (iii) serious illness of a family member; or (iv) any other emergent circumstances.

13. As far as "regular parole" is concerned, it may be given in the following cases:

- (i) serious illness of a family member;
- (ii) critical conditions in the family on account of the accident or death of a family member;
- (iii) marriage of any member of the family of the convict;
- (iv) delivery of a child by the wife of the convict if there is no other family member to take care of the spouse at home;
- (v) serious damage to the life or property of the family of the convict, including damage caused by natural calamities;
- (vi) to maintain family and social ties;
- (vii) to perse the filing of a special leave petition before this Court against a judgment delivered by the High Court convicting or upholding the conviction, as the case may be.

14. Furlough, on the other hand, is a brief release from prison. It is conditional and is given in case of long-term imprisonment. The period of sentence spent on furlough by the prisoners need not be undergone by him as is done in the case of parole. Furlough is granted as a good conduct remission.

15. A convict, literally speaking, must remain in jail for the period of the sentence or the rest of his life in case he is a life convict. It is in this context that his release from jail for a short period has to be considered as an opportunity

afforded to him not only to solve his personal and family problems but also to maintain his links with society. Convicts, too, must breathe fresh air for at least some time, provided they maintain good conduct consistently during incarceration and show a tendency to reform themselves and become good citizens. Thus, the redemption and rehabilitation of such prisoners for the good of society must receive due weightage while they are undergoing a sentence of imprisonment.

16. This Court, through various pronouncements, has laid down the differences between parole and furlough, a few of which are as follows:

- (i) Both parole and furlough are conditional releases.
- (ii) Parole can be granted in case of short-term imprisonment, whereas furlough is granted in case of long-term imprisonment.
- (iii) Duration of parole extends to one month, whereas in the case of furlough, it extends to fourteen days maximum.
- (iv) Parole is granted by the Divisional Commissioner, and furlough is granted by the Deputy Inspector General of Prisons.
- (v) For parole, a specific reason is required, whereas furlough is meant for breaking the monotony of imprisonment.
- (vi) The term of imprisonment is not included in the computation of the term of parole, whereas it is vice versa in furlough.
- (vii) Parole can be granted a number of times, whereas there is a limitation in the case of furlough.
- (viii) Since furlough is not granted for any particular reason, it can be denied in the interest of society.

(See *State of Maharashtra v. Suresh Pandurang Darvakar* [State of Maharashtra v. Suresh Pandurang Darvakar, (2006) 4 SCC 776 : (2006) 2 SCC (Cri) 411] and *State of Haryana v. Mohinder Singh* [State of Haryana v. Mohinder Singh, (2000) 3 SCC 394: 2000 SCC (Cri) 645] .)

17. From the aforesaid discussion, it follows that amongst the various grounds on which parole can be granted, the most important ground, which stands out, is that a prisoner should be allowed to maintain family and social ties. For this purpose, he has to come out for some time so that he can maintain his family and social contact. This reason finds justification in one of the objectives behind sentence and punishment, namely, the reformation of the convict. The theory of criminology, which is largely accepted, underlines that the main objectives which a State intends to achieve by punishing the culprit are: deterrence, prevention, retribution and reformation. When we recognise reformation as one of the objectives, it provides justification for letting out even the life convicts for short periods, on parole, in order to afford opportunities to such convicts not only to

solve their personal and family problems but also to maintain their links with society. Another objective that this theory underlines is that even such convicts have the right to breathe fresh air, albeit for short periods. These gestures on the part of the State, along with other measures, go a long way towards the redemption and rehabilitation of such prisoners. They are ultimately aimed at the good of society and, therefore, are in the public interest.

18. The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. The main purpose of such provisions is to afford them an opportunity to solve their personal and family problems and to enable them to maintain their links with society. Even citizens of this country have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, without employment prospects, without a fundamental knowledge of the communities to which they will return, and without resources, stand a significantly higher chance of failure. When offenders revert to criminal activity upon release, they frequently do so because they lack hope of merging into society as accepted citizens. Furloughs or parole can help prepare offenders for success.

19. Having noted the aforesaid public purpose in granting parole or furlough, ingrained in the reformation theory of sentencing, other competing public interests have also to be kept in mind while deciding as to whether, in a particular case, parole or furlough is to be granted or not. This public interest also demands that those who are habitual offenders and may have the tendency to commit the crime again after their release on parole, or have the tendency to become a threat to the law and order of society, should not be released on parole. This aspect takes care of other objectives of sentencing, namely, deterrence and prevention. This side of the coin is the experience that a great number of crimes are committed by the offenders who have been put back on the street after conviction. Therefore, while deciding whether a particular prisoner deserves to be released on parole or not, the aforesaid aspects have also to be kept in mind. To put it tersely, the authorities are supposed to address the question as to whether the convict is such a person who has the tendency to commit such a crime, or he is showing a tendency to reform himself to become a good citizen.

20. Thus, not all people in prison are appropriate for the grant of furlough or parole. Obviously, society must isolate those who show patterns of preying upon victims. Yet administrators ought to encourage those offenders who demonstrate a commitment to reconcile with society and whose behaviour shows that they aspire to live as law-abiding citizens. Thus, the parole programme should be used as a tool to shape such adjustments.

21. To sum up, in introducing penal reforms, the State that runs the administration on behalf of the society and for the benefit of the society at large cannot be unmindful of safeguarding the legitimate rights of the citizens in regard to their security in matters of life and liberty. It is for this reason that in

introducing such reforms, the authorities cannot be oblivious of the obligation to society to render it immune from those who are prone to criminal tendencies and have proved their susceptibility to indulge in criminal activities by being found guilty (by a court) of having perpetrated a criminal act. One of the discernible purposes of imposing the penalty of imprisonment is to render society immune from the criminal for a specified period. It is, therefore, understandable that while meting out humane treatment to the convicts, care has to be taken to ensure that kindness to the convicts does not result in cruelty to society. Naturally enough, the authorities would be anxious to ensure that the convict who is released on furlough does not seize the opportunity to commit another crime when he is at large for the time being under the furlough leave granted to him by way of a measure of penal reform.

22. Another vital aspect that needs to be discussed is whether there can be any presumption that a person who is convicted of a serious or heinous crime is to be, ipso facto, treated as a hardened criminal. The hardened criminal would be a person for whom it has become a habit or way of life, and such a person would necessarily tend to commit crimes again and again. Obviously, if a person has committed a serious offence for which he is convicted, but at the same time it is also found that it is the only crime he has committed, he cannot be categorised as a hardened criminal. In his case, consideration should be given as to whether he is showing the signs to reform himself and become a good citizen, or there are circumstances which would indicate that he has a tendency to commit the crime again or that he would be a threat to society. The mere nature of the offence committed by him should not be a factor to deny the parole outright. 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. We may hasten to put a rider here viz. in those cases where a person has been convicted for committing a serious offence, the competent authority, while examining such cases, can be well advised to have stricter standards in mind while judging their cases on the parameters of good conduct, habitual offender or while judging whether he could be considered highly dangerous or prejudicial to the public peace and tranquillity, etc.

23. There can be no cavil in saying that a society that believes in the worth of the individuals can have the quality of its belief judged, at least in part, by the quality of its prisons and services and the recourse made available to the prisoners. Being in a civilised society organised with law and a system as such, it is essential to ensure every citizen a reasonably dignified life. 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. For a prisoner, all fundamental rights are an enforceable reality, though restricted by the fact of imprisonment. [See *Sunil Batra (2) v. State (UT of Delhi)* [*Sunil Batra (2) v. State (UT of Delhi)*, (1980) 3 SCC 488: 1980 SCC (Cri) 777], *Maneka Gandhi v. Union of India* [*Maneka Gandhi v. Union of India*, (1978) 1 SCC 248] and *Charles Sobraj v. Supt., Central Jail*

[Charles Sobraj v. Supt., Central Jail, (1978) 4 SCC 104: 1978 SCC (Cri) 542] .]

24. It is also to be kept in mind that by the time an application for parole is moved by a prisoner, he would have spent some time in jail. During this period, various reformatory methods must have been applied. We can take judicial note of this fact, having regard to such reformation facilities available in modern jails. One would know by this time as to whether there is a habit of relapsing into crime in spite of having administered correctional treatment. This habit, known as "recidivism", reflects the fact that the correctional therapy has not brought (sic) any change in the mind of the criminal. It also shows that a criminal is hardcore, who is beyond correctional therapy. If the correctional therapy has not been made in itself, in a particular case, such a case can be rejected on the aforesaid ground, i.e. on its merits.

25. We are not oblivious of the act that there may be hardcore criminals who, by reason of their crime and the methods of dealing with the crime, form associations, loyalties and attitudes which tend to persist. There may even be peer pressure when such convicts are out to commit those crimes again. There may be pressure of being ostracised from delinquent groups, which may lead them to commit the crime again. Persistence in criminal behaviour may also be due to personality traits, most frequently due to pathological traits of personality, such as mental defectiveness, emotional instability, mental conflicts, egocentrism and psychosis. In regard to relapse or recidivism, Frank Exner, a noted criminologist and sociologist, points out that the chances of repeating increase with the number of previous arrests and the interval between the last and the next offence becomes shortened as the number of previous crimes progresses [Frank Exner, *Kriminologie*, pp. 115-120]. The purpose of the criminological study is the prognosis of the improvable occasional offenders and that of the irredeemable habitual offenders and hardcore criminals. To differentiate the recidivists from non-recidivists and dangerous and hard-core criminals from occasional criminals had been enumerated by Exner in the following flowsheet:

- (i) Hereditary weakness in the family life.
- (ii) Increasing tempo of criminality.
- (iii) Bad conditions in the parental home.
- (iv) Bad school progress (especially in deportment and industriousness).
- (v) Failure to complete studies once begun.
- (vi) Irregular work (work shyness).
- (vii) Onset of criminality before 18 years of age.
- (viii) More than four previous sentences.
- (ix) Quick relapse of crime.
- (x) Interlocal criminality (mobility).

- (xi) Psychopathic personality (diagnosis of an institutional doctor).
- (xii) Alcoholism.
- (xiii) Release from the institution before 36 years of age.
- (xiv) Bad conduct in the institution.
- (xv) Bad social and family relations during the period of release.

At the same time, as criminality is the expression of the "symptom" of a certain disorder in the offenders, they can be easily reformed if they are rightly diagnosed and the correct treatment is administered to them."

9. It was laid down in *Harbhajan Singh v. State of H.P.*, 2019 SCC OnLine HP 3599, that the mere nature of the offence cannot be a ground to deny parole when the prisoner's conduct shows a tendency to reform himself. It was observed:

"17. For rejection of an application for parole, there are two grounds set out in Section 6 of the Act. Firstly, in case a prisoner is released, he will likely to endanger the security of the State. Admittedly, the petitioner has been convicted for the offence committed under Section 302 IPC. But, in no way, it could be inferred that he is likely to endanger the security of the State, and even if so, the State has got enormous powers to put restrictions on the petitioner to protect the Security of the State. The second ground is the maintenance of public order. In this regard, in the response made by the District Magistrate, there is no reference as to whether he laid a threat to public order.

18. When these two grounds, set out in Section 6 of the Act, are not reflected or mirrored in the report of the District Magistrate, we have to presume that the District Magistrate has given its report without application of mind. When a provision or a statute directs an officer to do a particular job in a particular manner, it shall be the duty of that officer to do the said job in that particular manner only. When a District Magistrate is directed to make a report on the basis of an assessment in an objective manner, he shall do it in that manner only.

19. Further, the rejection by the Government or the officer authorised by the Government should be on two grounds, namely, when it is likely to endanger the security of the State or the maintenance of the public order, which are lacking in the instant case.

20. In *Francis Coralie Mullin v. The Administrator, UT Delhi*, (1981) 1 SCC 608: AIR 1981 SC 746, Hon'ble Mr Justice Marshall has aptly said, and we quote. "I have previously stated my views that a prisoner does not shed his basic constitutional rights at the prison gate, and I fully support the court's holding that the interest of the inmate."

21. In *Kharak Singh v. State of UP*, AIR 1963 SC 1295, it has been held that life means more than mere animal existence. The right to live is not restricted to

mere animal existence. It means something more than just physical survival.

22. In *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248: AIR 1978 SC 597, which was followed in *Francis Coralie v. Delhi Administration*, supra, it has been held that the right to live does not mean mere confinement to physical existence, but it includes within its ambit the right to live with human dignity.

23. Seeking parole/remission/premature release, or furlough, is not a right of a detenu. However, the same has to be considered in the light of the observations made hereinabove. The consideration should always keep in view the rights of the prisoners. The release of a prisoner from jail for a short period has to be considered as an opportunity afforded to him not only to solve his personal and family problems but also to maintain his links with society. Convicts, too, must breathe fresh air for at least some time, provided they maintain good conduct during incarceration and show a tendency to reform themselves and become good citizens.

24. The Hon'ble Supreme Court in *Asfaq v. State of Rajasthan*, (2017) 15 SCC 55, in para 15 of the judgment, has held as under:

"15. A convict, literally speaking, must remain in jail for the period of the sentence or the rest of his life in case he is a life convict. It is in this context that his release from jail for a short period has to be considered as an opportunity afforded to him not only to solve his personal and family problems but also to maintain his links with society. Convicts, too, must breathe fresh air for at least some time, provided they maintain good conduct consistently during incarceration and show a tendency to reform themselves and become good citizens. Thus, redemption and rehabilitation of such prisoners for the good of societies must receive due weightage while they are undergoing a sentence of imprisonment."

25. From the discussion made hereinabove, it is clear that the Hon'ble Supreme Court has propounded a reformatory theory. Under the said concept, an opportunity is to be granted to a person to get himself reformed, and in case he gets himself reformed, he will be a person to live in society. It is also worthwhile to extract the relevant portions of paras 17 and 18 of the said judgment herein:

"17. From the aforesaid discussion, it follows that amongst the various grounds on which parole can be granted, the most important ground, which stands out, is that a prisoner should be allowed to maintain family and social ties. For this purpose, he has to come out for some time so that he is able to maintain his family and social contacts. This reason finds justification in one of the objectives behind sentence and punishment, namely, the reformation of the convict....."

18. The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. The main purpose of such provisions is to afford them an opportunity to solve their personal and family problems and to enable them to maintain their links with society....."

26. Many a time, the State takes up the ground that the prisoner has committed a heinous offence, and granting parole/remission or premature release is likely to endanger the security of the State or the maintenance of the public order. From the above discussion, we feel that the conviction in a serious and heinous crime cannot be the reason for denying parole per se. Having noted the aforesaid public purpose in granting parole or furlough, ingrained in the reformation theory of sentencing, other competing public interests have also to be kept in mind while deciding as to whether, in a particular case, parole or furlough is to be granted or not. This public interest also demands that those who are habitual offenders and may have the tendency to commit the crime again after their release on parole, or have the tendency to become a threat to the law and order of society, should not be released on parole. 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.

27. In *Inder Singh v. State (Delhi Administration)*, (1978) 4 SCC 161, the Hon'ble Supreme Court has held that if the behaviour of the prisoners shows responsibility and trustworthiness, liberal though cautious, parole will be allowed to them so that their family ties may be maintained and inner tensions may not further build up.

28. In *Shakuntala Devi v. State of Delhi*, (1996) 36 DRJ 545, it has been held as under:

"5. In *Poonam Lata v. M.L. Wadhawan*, it has been held by their Lordship that "Release on parole is a wing of reformatory process and is expected to provide opportunity to the prisoner to transform himself into a useful citizen."

In *Inder Singh v. State*, the Apex Court has devised another harmonising strategy, viz., a guarded parole release every year, for at least a month, punctuating the total prison term, for maintaining his family ties. A prisoner cannot maintain his family ties by living in a small world of his own, cribbed, cabined and confined within the four walls of the prison. In the case of *Inder Singh* (supra), their lordships directed that:—

"..... if the behaviour of the prisoners shows responsibility and trustworthiness, liberal though cautious, parole will be allowed to them so that their family ties may be maintained and inner tensions may not further build up. After every period of one year, they should be released on parole for two months. Their lordships further added that "Article 21 of the Constitution is the jurisdiction root for this legal liberalism."

10. It was held by the Hon'ble Supreme Court in *Shor vs. State of Uttar Pradesh and Anr.* (05.08.2020 - SC Order) : MANU/SCOR/34434/2020 that the parole cannot be rejected on the ground that the crime is heinous. It was observed:

"Merely repeating the fact that the crime is heinous and that release of such a person would send a negative message against the justice system in society are

factors de hors Section 2. Conduct in prison has not been referred to at all, and the Senior Superintendent of Police and the District Magistrate confirming that the prisoner is not "incapacitated" from committing the crime is not tantamount to stating that he is likely to abstain from crime and lead a peaceable life if released from prison.

11. Rule 3(2) of the Prisoners Act specifically provides that the District Magistrate and Superintendent of Police shall give their opinion whether the temporary release on parole was opposed on the ground that the prisoner was dangerous to the security of the State or prejudicial to the maintenance of public order. Therefore, the Rule only provides two grounds for opposing the application for parole. The report of the Superintendent of Police does not mention that the petitioner's release on parole would be dangerous to the security or prejudicial to the maintenance of the public order. Rather, it mentions that these two grounds are not applicable. It was mentioned that the victim's father stated that the petitioner should not be released on parole because of a life threat to the victim and her family members. The Releasing Authority denied the parole on the grounds that the District Magistrate had not recommended the parole because of a life threat to the victim and her family members. This was an irrelevant consideration and could not have been used to deny the parole to the petitioner

12. Further, no material for concluding the life threat was mentioned. No instance was given that the petitioner had ever threatened the victim or her family members during the trial. Therefore, the reason for the denial of the parole is not based on any material. It was held by this Court in *Yashpal @ Jaspal @ Mintu* (supra) and *Alam Singh @ Avtar @ Tari* (supra) that when the report is not based upon the material, the rejection cannot be sustained.

13. In view of the above, the present petition is allowed and the petitioner is ordered to be released on parole for 42 days subject to his furnishing personal bond in the sum of ₹ 1,00,000/- and two surety bonds of the like amount to the satisfaction of the Superintendent Jail with an undertaking to maintain good conduct during the period of parole and to surrender before the Superintendent 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 and to report any deviation from the direction issued by the Court.

14. The Superintendent Jail is free to impose any other suitable condition at the time of the release of the petitioner

15. The present petition stands disposed of, and so are the pending miscellaneous applications, if any.