
**Amarnath Pandey Vs State Of Chhattisgarh Through Chief Secretary And
Ors**

Writ Petition (PIL) No. 78 Of 2017

Court: Chhattisgarh High Court

Date of Decision: May 2, 2019

Acts Referred:

Code Of Criminal Procedure, 1973 " Section 432, 432(1), 432(2)#Indian Penal Code, 1860
" Section 121, 132, 302, 305, 307, 396#Chhattisgarh Prisons Rules, 1968 " Rule 358, 359,
698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716,
717

Hon'ble Judges: Prashant Kumar Mishra, J; Parth Prateem Sahu, J

Bench: Division Bench

Advocate: Rajni Soren, Richa Shukla, Sunil Otwani

Final Decision: Disposed Of

Judgement

,
2017",
2018",
2019",
,82,36,13,131
,21,04,01,26
,68,20,24,112
,35,25,32,92
,13,09,28,50
,219,94,98,411

procedure. To that extent, the exercise by the Inspector-General (Prison) by submitting periodical report to the Prison Review Board or convicting",,,,

Court would not be termed as suo motu exercise of power, but it is exercise of a statutory power.".,,,,

10. Section 432 of CrPC empowers the appropriate Government either to suspend the execution of sentence or remit the whole or any part of.,,,,

sentence to which, he has been sentenced and while passing such order, it can impose any condition or without any condition. Such order can be".,,,,

passed at any time. Sub-section (2) of Section 432 provides about the opinion to be secured from the Presiding Judge of the Court who convicted the.,,,,

person and imposed the sentence or the Court which ultimately confirmed such conviction as to whether the application under Section 432 of CrPC.,,,,

should be granted or refused.,,,,

11. The Presiding Judge is required to forward his opinion along with certified copy of the record of the trial or of such record as exists. The Presiding.,,,,

Judge's powers under Section 432(2) of CrPC is required to be exercised consciously and objectively and not mechanically. While exercising power to.,,,,

accord opinion, the Presiding Judge is not expected to work as a Post-Office, but is required to apply his mind for which, sufficient guideline is" ,,,,,

provided under Rule 358 of the Rules, 1968. To enable the Presiding Judge to effectively exercise its power under Section 432(2) of CrPC, the" ,,,,,

Inspector-General (Prison) is required to provide all necessary materials while reporting the matter to the Court.,,,,

12. Learned counsels would next submit that there are cases in which application under Section 432 of CrPC has been rejected by State Government.,,,,

more than two years back, but the same has not been taken up for consideration despite there being provision under Rule 358 of the Rules, 1968" ,,,,,

which enjoins the State Government to review the cases again after expiry of two years period from the date of previous rejection.,,,,,

13. It is also highlighted that 67 cases which are presently pending consideration before the Court have not been taken up for consideration since long.,,,,,

and regular meetings of the Board is not taking place.,,,,,

14. Considering the statutory provisions contained under Section 432 of CrPC read with Rule 358 and 359 of the Rules, 1968, we dispose of this PIL" ,,,,,

with the following directions :- ,,,,,

(1) The Prison Review Board constituted under Rule 358 of the Rules, 1968 shall meet at least twice in a year to review the cases of all such convicts" ,,,,,

whose cases are produced before it by the Inspector-General (Prison) for exercise of power under Section 432 of CrPC.,,,,,

(2) The Prison Review Board shall take up cases of such convicts whose earlier application for release have been considered and rejected more than.,,,,,

two years back and this practice should be followed in every meeting of the Board.,,,,,

(3) Whenever applications under Section 432 of CrPC are sent to the Presiding Judge for its opinion under sub- section (2) of Section 432, the" ,,,,,

Presiding Judge shall not exercise his power in a mechanical manner. It is also expected of the Presiding Judge that cases under Section 432(2) of ,,,,,

CrPC shall be disposed of within a period of three months from the date on which the matter is first placed before the Presiding Judge.,,,,,

15. We record our appreciation for the valuable assistance rendered by Mr. Sunil Otwani, Ms. Rajni Soren and Ms. Richa Shukla, learned counsels",,,,

who have appeared in this PIL.,,,,