
(2024) 11 SHI CK 0051

High Court Of Himachal Pradesh

Case No: Civil Writ Petition No.10550 Of 2024

Kulbhushan @ Rinku (Lodged in
Model Central Jail Nahan, District
Sirmour, H.P.)

APPELLANT

Vs

State Of H.P. And Others

RESPONDENT

Date of Decision: Nov. 5, 2024

Acts Referred:

- Indian Penal Code, 1860 - Section 34, 302, 323, 326, 452, 506

Hon'ble Judges: Vivek Singh Thakur, J; Rakesh Kainthla, J

Bench: Division Bench

Advocate: Karan Kapoor, Manoj Chauhan

Final Decision: Disposed Of

Judgement

Vivek Singh Thakur, J

1. By way of this petition, petitioner has approached this Court for enlarging him on parole as his application for parole was rejected by the Competent

Authority which was communicated to him vide communication dated 03.09.2024 (Annexure P-3) issued from the Director General, Prisons and

Correctional Services, Himachal Pradesh.

2. Petitioner has been convicted in case FIR No.84 of 2021 (Sessions Trial No.84 of 2021) under Sections 302, 323, 326, 452 and 506 read with

Section 34 of the Indian Penal Code, registered in Police Station Jogindernagar, District Mandi, H.P., and he is undergoing rigorous imprisonment for

life.

3. Admittedly, earlier, similar application preferred by the petitioner was also rejected by the concerned Authority due to reasons that the victim party objected to the petitioner's parole.
4. In response to the present petition, respondents have placed on record instructions dated 17.10.2024, placed on record on 18.10.2024 alongwith custody certificate, reports of District Administration/Police.
5. According to the information placed on record during inquiry conducted, before considering application for releasing the petitioner on parole, it has been reported by the Superintendent of Police, Mandi, H.P., that according to the statements made by the members of the victim family, petitioner is a person of quarrelsome nature and, if he is released on bail, he can potentially harm the victim's family in future as he has also quarreled with victim's family on earlier occasion.
6. Taking into consideration the non-recommending report of the concerned District Authority, petitioner's case for parole has been rejected by the Competent Authority.
7. After filing of the aforesaid instructions respondents were granted time to place on record material to substantiate the plea of the District Authority with respect to apprehension of involvement of the petitioner in quarrel or harming the family of the victim as reported in the inquiry conducted before recommending or rejecting the claim of the petitioner to enlarge him on parole. Neither in the instructions or alongwith the same nor today, respondents have placed on record any material to substantiate the plea taken by the District Authority not to recommend case of the petitioner for releasing him on parole.
8. Learned counsel for the petitioner has submitted that FIR was registered in the year 2011 and during his trial petitioner was enlarged on bail and after conviction in the month of February 2023 he has surrendered to serve sentence and since then he is serving sentence. It has further been submitted on behalf of the petitioner that during his enlargement on bail, petitioner did not involve in any illegal activities and he did not cause any harm to the victim party or anybody else, and there is nothing adverse regarding his conduct during his bail period. To substantiate his plea, he has also

placed on record Form $\hat{\epsilon}^{\sim}\hat{B}^{\epsilon\text{TM}}$ related to the petitioner having details of the petitioner, which indicates no adverse entry about his conduct from the date of arrest till the date of release on bail during pendency of the trial. Also, there is nothing on record to substantiate the plea that petitioner can harm the victim party and shall cause any incident or breach of peace in the Village, rather material placed before us depicts contrary thereto.

9. Learned counsel for the petitioner has also submitted that in similar circumstances, Coordinate Benches of this High Court vide judgment dated 19.10.2023 passed in CWP No.5978 of 2023, titled as Ramesh Kumar vs. State of Himachal Pradesh and others; judgment dated 16.10.2023 passed in CWP No.5965 of 2023, titled as Retaish Kumar vs. State of H.P. & others; judgment dated 09.10.2023 in CWP No.6562 of 2023, titled as Pushp Raj vs. State of H.P. & others; judgment dated 23.05.2023 passed in CWP No.1710 of 2023, titled as Bihari Lal vs. State of H.P. & others; judgment dated 23.07.2021 passed in CWP No.3516 of 2021, titled as Virender Kumar alias Bindu vs. State of H.P. & others; and judgment dated 20.05.2024 passed in CWP No.2640 of 2024, titled as Lucky vs. State of H.P. & others, after taking into consideration pronouncement of the Supreme Court in Asfaq Vs. State of Rajasthan and others, (2017) 15 SCC 55, have enlarged the petitioner(s) therein on parole in similar circumstances.

10. Taking into consideration entire material placed before us, we are of the considered opinion that petitioner cannot be denied parole on the ground which has been cited by the respondents for rejecting his application.

11. Accordingly, rejection communicated to the petitioner vide communication dated 03.09.2024 (Annexure P-3) is quashed and set aside with direction to the respondents-State to reconsider the case of the petitioner for extending benefit of parole to him for a period of 28 days specified in appropriate order to be issued to the concerned Authority on or before 12.11.2024 to ensure enlargement of the petitioner on parole after completing all necessary formalities, including furnishing of bonds etc. immediately thereafter.

12. Needless to say that petitioner shall abide by the conditions imposed upon him by the concerned Authority, in accordance with law, and Rules

applicable during the parole period, including to surrender before the Superintendent Jail concerned on expiry of parole period. Petitioner's parole shall be liable to be cancelled in case of breach of any condition of parole order and/or on creating law and order problem which shall be treated as a negative factor for consideration of his similar prayers in the future.

13. Accordingly, the petition is disposed of, so also pending application, if any.

Petitioner is permitted to produce a copy of this judgment downloaded from the Website of the High Court before the Authorities concerned and the

said authorities shall not insist for production of a certified copy, but, if required, may verify passing of the order from the Website of the High Court or

otherwise.

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