

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Criminal Writ Petition No. 1200/2024

Shankar Lal, S/o Jagannath, R/o Rasulpura PS Sadar Nimbaheda
Dist. Chittorgarh, Raj. (Lodged in Central Jail Udaipur)

----Petitioner

Versus

1. State of Rajasthan, through Secretary Jaipur
2. Collector, Udaipur.
3. Superintendent Central Jail, Udaipur.

----Respondents

For Petitioner(s) : Mr. Ramdev Rajpurohit, Amicus Curiae
For Respondent(s) : Mr. Anil Joshi, GA-cum-AAG with
Mr. Rajat Chhapparwal

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE MUNNURI LAXMAN
Order

02/08/2024

1. The present petitioner, who is languishing in Central Jail, Udaipur, has preferred the present parole seeking release on second parole for 15 days.
2. Mr. Ramdev Rajpurohit (Amicus Curiae), learned counsel for the petitioner submits that jail conduct of the petitioner is satisfactory. He further submits that in peculiar facts of the case, the Superintendent of Police, Udaipur and Social Justice and Welfare Department have not recommended the parole due to conviction involving rape of the daughter, thus putting the whole family to some kind of apprehension. The other ground given was that earlier in 2018 the petitioner was granted 20 days parole but he absconded. However, he was rearrested on 18.05.2018 and taken back in custody and thereafter the petitioner was again



granted parole and the parole conditions were relaxed by this Court in D.B. Criminal Writ Petition No.169/2021 decided on 22.07.2022 which reads as follows: -

“The convict-petitioner Shankar Lal S/o Jagannath Jatiya was granted parole of seven days by this court vide order dated 10.06.2020 passed in D.B. Criminal Writ Petition No.191/2020. However, citing the poor financial condition of the family, he has filed the instant writ petition with a prayer that the condition imposed by this court of furnishing two sureties of Rs.40,000/- each for his release on parole may be waived and he may be ordered to be released on parole upon furnishing a personal bond only.

In terms of the order dated 13.07.2021, the police officer of the Police Station Nimbaheda conducted an enquiry and recorded the statement of Jagannath, father of the present petitioner, who expressed that he is not ready to give any undertaking for conduct of the petitioner, if he is released on parole.

In view of the peculiar facts noted above, we are not inclined to waive the condition of furnishing two surety bonds imposed upon the petitioner vide order dated 10.06.2020 in toto. Instead, the said condition is relaxed and it is directed that the petitioner Shankar Lal S/o Jagannath Jatiya shall be released on parole of seven days, if he furnishes a personal bond in the sum of Rs.80,000/- and one surety in the sum of Rs.40,000/- to the satisfaction of Superintendent Central Jail, Udaipur on the usual terms and conditions. The Superintendent, Central Jail, Udaipur shall be at liberty to impose other adequate and reasonable conditions to ensure return of the convict to the custody after availing the parole. The term of parole shall be computed from the date of his actual release. The writ petition is disposed of accordingly. This order shall be conveyed to the petitioner forthwith.”

3. Learned counsel for the petitioner submits that he has abided by such conditions and successfully completed his parole. He further submits that the petitioner is already undergone a sentence of 13 years, 3 months and 29 days.



4. Learned GA cum AAG opposes this petition, but is unable to refute the aforesaid factual matrix.

5. Heard learned counsel for the parties and perused the material available on record. This Court on conjoint consideration of the earlier order passed by this Court for emergent parole granted by the authority, the sentence of 13 years, 3 months and 29 days already undergone by the petitioner as well as the fact that he returned back from the parole which was last granted on the condition which was imposed by this Court, this Court is inclined to grant 15 days parole to the petitioner.

6. The Court is mindful of the legislative intent of the POCSO Act which provides that the contact between the accused and the victim (in this case, the daughter of the accused) should be prevented in order to minimize the trauma experienced by the child. According to us, if the victim is faced with the presence of the convict-petitioner, it would have an adverse impact on her mental well-being and she would be forced to re-visit the trauma and be reminded of the incident which she would be trying hard to forget.

7. But then, a balance has to be struck between the safety and emotional aspect of the victim and statutory rights of the accused. We are of the opinion that such balance would be achieved if the accused spends his time of parole at a place which is away from victim's residence.

8. Accordingly, the criminal writ petition is allowed and it is hereby directed that the petitioner -**Shankar Lal, S/o**



Jagannath shall be released on 15 days' parole strictly in accordance with the provisions of Parole Rules after ensuring its strict compliance as required before his release upon his furnishing a personal bond in the sum of Rs.80,000/- and one surety in the sum of Rs.40,000/- to the satisfaction of Superintendent Central Jail, Udaipur on the usual terms and conditions. The Superintendent, Central Jail, Udaipur shall be at liberty to impose other adequate and reasonable conditions to ensure return of the convict to the custody after availing the parole. The term of parole shall be computed from the date of his actual release. The writ petition is disposed of accordingly. This order shall be conveyed to the petitioner forthwith.

9. This Court directs that if the petitioner, during the period in which he is released on parole, indulges in any kind of offence or/ and any report is lodged against him of any offence, then, in such event, the parole granted to him shall stand cancelled.

10. It is also ordered that the convict-petitioner shall spend his period of parole at a place, which is away from the victim's residence and he shall not visit the place, where the victim resides.

(MUNNURI LAXMAN),J

(DR. PUSHPENDRA SINGH BHATI),J

6-Dharmendra Rakhecha & BhumikaP/-