



2026:CGHC:10989-DB



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 133 of 2026

1 - Dheluram S/o Motiram Aged About 68 Years (Prisoner), Through His Next Friend, S/o Topsingh Anant, S/o Dheluram, Aged About 35 Years, R/o Village Koilari, P.S. Lalpur, Distt. Mungeli, Chhattisgarh.

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Home (Jail), Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, Distt. Raipur, Chhattisgarh.

2 - The Director General (Prison) The Jail And Correctional Services Chhattisgarh, Jail Road, Raipur, Distt. Raipur, Chhattisgarh.

3 - The District Magistrate Mungeli, Distt. Mungeli, Chhattisgarh.

4 - The Jail Superintendent Central Jail, Bilaspur, District Bilaspur, Chhattisgarh.

5 - The Superintendent Of Police Mungeli, Distt. Mungeli, Chhattisgarh.

... Respondent(s)

For Petitioner(s) : Mr. Chandrakaditya Pandey, Advocate
For State : Mr. N. K. Jaiswal, Dy. Govt. Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

03/03/2025

1. Heard Mr. Chandrakaditya Pandey, learned counsel for the petitioner as well as Mr. N. K. Jaiswal, Dy. Govt. Advocate for the Respondent/ State.
2. Upon mention being made by the learned counsel for the petitioner, the matter was treated as urgent and the prayer was allowed. The Registry was directed to list the matter in List-I (Supplementary List) after due notice to the office of the learned Advocate General.
3. The present writ petition has been filed by the petitioner with the following relief(s):

“10.1 That, this Hon'ble Court may kindly be pleased to call for the entire records pertaining to the case of the petitioner for perusal of this Hon'ble Court.

10.2 That, this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus directing the respondents, particularly Respondent No. 3 and Respondent No. 4 to forthwith consider

and grant parole/leave to the petitioner under the Chhattisgarh Prisoner's Leave Rules, 1989, for a period of at least 90 days to enable treatment in a private hospital of his choice at his own expense.

10.3 That, this Hon'ble Court may kindly be pleased to direct the respondents to release the petitioner on parole within 24 hours of the order, subject to reasonable conditions such as furnishing sureties, periodic reporting, and restriction treatment purposes. to medical

10.4 That, this Hon'ble Court may kindly be pleased to quash the inaction/pendency of the petitioner's parole application as arbitrary and violative of Articles 14 and 21 of the Constitution of India.

10.5 That, any other writs and direction which this Hon'ble Court deems fit and just in the facts and circumstances of the case be granted to the petitioner."

4. Learned counsel for the petitioner would submit that the petitioner is presently undergoing sentence and is suffering from a serious medical condition, namely gangrene. He was admitted to Dr. B.R. Ambedkar Memorial Hospital for treatment, where earlier one of his toes had already been amputated. Subsequently, the doctors informed him that the infection had further spread and that amputation of his legs might be required. Being apprehensive

about the line of treatment and having lost faith in the government hospital, the petitioner expressed his desire to seek treatment from a private hospital of his choice.

5. In view of his deteriorating health condition, the petitioner submitted an application for grant of parole to enable him to obtain proper medical treatment in a private hospital. The said application was forwarded by the jail authorities to the learned District Magistrate for consideration. However, despite the urgency of the medical situation, no decision has been taken on the petitioner's application and the same has been kept pending.
6. It is most respectfully submitted on behalf of the petitioner that the inaction of the respondent authorities in not deciding the petitioner's application for grant of parole/leave for medical treatment is wholly arbitrary, illegal and violative of his fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India. The petitioner has already undergone a substantial portion of the modified sentence of four years as affirmed by the High Court of Chhattisgarh and the Special Leave Petition preferred before the Supreme Court of India has been dismissed; thus, the conviction has attained finality. However, the right to life under Article 21 includes the right to proper and adequate medical treatment of one's choice, and the petitioner, who is suffering from a serious ailment (gangrene) and is facing the imminent risk of amputation of his legs, cannot be denied

timely medical care merely due to administrative apathy. The petitioner has already applied for parole/leave under the Chhattisgarh Prisoner's Leave Rules, 1989, but the authorities have failed to take any decision thereon, which amounts to denial of his statutory as well as constitutional rights. In these grave and emergent circumstances, it is just, proper and in the interest of justice that this Hon'ble Court may be pleased to direct the respondent authorities to forthwith consider and grant parole/leave to the petitioner for a specified period to enable him to obtain treatment from a private hospital of his choice.

7. It is respectfully submitted on behalf of the State the petitioner is a convicted prisoner undergoing sentence pursuant to the judgment affirmed by the High Court of Chhattisgarh. It is further submitted that parole is not a matter of right but is subject to statutory rules and administrative satisfaction, and the petitioner's application is under due consideration by the competent authority. There is no deliberate inaction or arbitrariness, and the State is fully committed to ensuring necessary medical care to the petitioner within the prison framework. Hence, no violation of Articles 14 or 21 of the Constitution is made out, and the petition deserves to be dismissed.
8. We have heard the learned counsel for the parties and perused the material available on record.
9. In order to decide the petitioner's application, it would be

appropriate to notice the relevant provisions contained in Rule, 1989 which state as under:-

"4. Conditions of Leave.--The prisoners shall be granted leave under sub-section (1) of Section 31-A of the Act on the following conditions, namely :--

- (a) He fulfills the conditions laid down in Section 31-A of the Act;
- (b) He has not committed any offences in jail between the date of application for leave and receipt of the order of such leave;
- (c) The releasing authority must be satisfied that the leave may be granted without detriment to the public interest;
- (d) He gives in writing to the Releasing Authority the place or places which he intends to visit during the period of his leave and undertake not to visit any other place during such period without obtaining prior permission of the Releasing Authority in that behalf; and
- (e) He should furnish security to the satisfaction of the Releasing Authority if such security is demanded by the Releasing Authority.

6. Sanctioning Authority for first leave.--

- (a) If the District Magistrate, after making such enquiry as he may consider necessary, is satisfied that the request for grant of leave can be

granted without detriment to public interest, he shall issue to the Superintendent a duly signed and sealed warrant in Form 'A' to the prisoner. The District Magistrate shall enter in the warrant the number of days that will be required for the journeys by the shortest practicable route to and from the place at which during his leave the prisoner proposes to reside or if he proposes to visit more than one place, the farthest place from the Jail which he proposed to visit.

Note.--The District Magistrate is responsible for the proper carrying out of these instructions. He may of course, consult the District Superintendent of Police on the advisability of granting the leave. The Superintendent of Police should also obtain the opinion of the Gram Panchayat of the village, where the prisoner resided before conviction and send to the District Magistrate along with his report. But the responsibility for the action is that of the District Magistrate. He should use his discretion and should refuse to grant leave only in cases in which he is satisfied that release is fraught with danger to the public safety. Security should be demanded only when it is really necessary, for example, when there is reasonable apprehension that

the prisoner will break leave. When security is required, the District Magistrate of the place where the surety resides should be asked by the releasing District Magistrate to accept the surety and not call the surety to his own headquarters. If the prisoner intends to visit another district, where his near relatives reside, the concerning District Magistrate shall make necessary enquiries from the District Magistrate of that District before sanctioning the leave.

(b) If the District Magistrate considers that the grant of leave to the prisoner is undesirable in the public interest, he shall intimate his opinion to the Superintendent, who shall inform the prisoner that his request has been rejected.

9. Conditions for release on leave – After satisfaction regarding prisoner's eligibility for leave, Competent Authority shall release such prisoner on leave on the following conditions :-

(1) During the period of his leave, he shall not go to any place other than those places which have been mentioned in his leave application.

(2) During his leave he shall neither commit any crime nor involve in any

such act that may have its bearing on public interest.

(3) After spending his leave he shall present himself at the Jail from where he was released, but in the event of accident, disease, natural calamity, such prisoner can surrender himself at any other nearest Police Station with proper ground.

Note :- Provided that no prisoner shall claim leave as a right for leave granted under these rules.]

11. Arrest of a prisoner in event of breach of conditions.–

(1) If any prisoner does not present himself on the evening of fixed date of his return, he shall be treated as prisoner at large and an FIR shall be registered against him at the Police Station in whose jurisdiction concerning jail (where prisoner was expected to surrender) is situated, and concerned Station House Officer shall put up challan against escaped prisoner. Station House Officer shall initiate necessary actions as per provisions contained in Sections 82 and 83 of Criminal Procedure Code and information regarding such actions shall be sent to Jail Superintendent by him.

(2) If negligence regarding registering the FIR in case of such offence has

been shown by police in spite of having received information from Superintendent of Jail under Rule 11 of the Madhya Pradesh Prisoner's Leave Rules, 1989, Police Superintendent shall inform Inspector General of Prisons after registration of such crime of the concerned Police Officer under Section 221 of Criminal Procedure Code.

(3) In the event of escape of prisoner during the period of leave, case shall be registered against the guarantor at concerned Police Station for abetment.

(4) In the event of escape of prisoner during leave Jail Superintendent shall submit application before the Court of Tahsildar for initiating actions regarding forfeiture of his security as well as attachment of guarantor's assets. On this application, Tahsil Court shall take necessary actions for attachment of assets.

12. Penalty for overstay.—If the prisoner returns to the jail of his own accord after the date fixed for his return he shall be admitted to the jail and the prisoner's return and the reason for the delay shall be reported immediately to the District Magistrate of the district in which the jail is situated, for his orders where the prisoner should be prosecuted. If it is not considered to

prosecute, the Superintendent should hold an enquiry and may for good and sufficient reasons, award one of the following punishments:–

- (a) Formal Warning.
- (b) Forfeiture for a period not exceeding 3 months privileges of interview, receiving and sending letters.
- (c) Degradation from higher to lower grade.
- (d) Forfeiture of 5 days remission for each day's overstayal on leave which shall not exceed total period of his sentence inclusive of unexpired period of sentence.

10. In the matter of **Shor v. State of U.P.** decided on 05.08.2020 in **WP(Cr.) No. 58/2020**, the Hon'ble Supreme Court has granted the benefit of parole to those, whose application was rejected on the ground that the crime is heinous and release of such a person would send a negative message against the justice system in the society. The relevant portion of the said order is reproduced hereinunder for ready reference:

“....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 the society are factors de hors Section 2 of the United Provinces Prisoners Release on Prohibition Act, 1938. 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 is released from prison....”

11. Upon perusal of the material available on record, this Court is of the considered view that the petitioner is suffering from a serious medical condition requiring urgent attention. The medical documents placed on record indicate that he has already undergone amputation of a toe and is presently facing the risk of further amputation due to the spread of infection. The right to life guaranteed under Article 21 of the Constitution of India encompasses the right to timely and adequate medical treatment. Though parole cannot be claimed as a matter of absolute right, the competent authority is under a statutory obligation to consider and decide the petitioner’s application within a reasonable time, particularly when the same is founded on serious medical grounds.
12. In the present case, the petitioner’s application for grant of parole for medical treatment in a private hospital has admittedly been forwarded to the competent authority but remains undecided. Such inaction, especially in matters concerning health and life, cannot be countenanced. Accordingly, without expressing any

opinion on the merits of the petitioner's claim for parole, this writ petition is disposed of with a direction to the concerned competent authority to consider and decide the petitioner's pending application for grant of parole/leave strictly in accordance with law, by passing a reasoned and speaking order, within a period of 10 days from the date of receipt of a copy of this order.

13. With the aforesaid direction, the present writ petition is disposed of.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice