



**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

D.B. Criminal Writ Petition (Parole) No. 398/2024

Om Prakash :



----Petitioner

Versus

1. State Of Rajasthan, Through Secretary, Department Of Home, Secretariat, Jaipur.
2. The Prisoners Parole Advisory Committee (State Committee), Through Its Chairman, Director General Of Prisons, Rajasthan.
3. The District Collector Cum Magistrate, Sikar, Rajasthan.
4. The Superintendent Central Jail, Jodhpur.

----Respondents

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For Petitioner(s) : Mr. Abhishek B. Sharma  
For Respondent(s) : Mr. Javed Chaudhary, Dy.G.A.

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**HON'BLE MR. JUSTICE INDERJEET SINGH  
HON'BLE MR. JUSTICE ASHUTOSH KUMAR**

**Order**

**24/04/2024**

1. This parole petition has been filed under Article 226 of the Constitution of India with the following prayers as mentioned in the amended writ petition:

“(i) To quash and set-aside the impugned order dated 15.02.2024 passed by the State Parole Committee against the petitioner after declaring the same as illegal and perverse.



- (ii) To release the accused-petitioner on permanent parole.
- (iii) Any other appropriate order or direction which this Hon'ble Court deems fit and proper may kindly be passed in favour of the petitioner."



2. Learned counsel for the petitioner submits that vide judgment dated 11.08.2000 passed by the trial Court in Sessions case No.11/1997, the petitioner was convicted for the offence under Sections 148, 342, 458, 396, 397 and 398 of IPC and sentenced to undergo life imprisonment. The petitioner filed a D.B. Criminal Appeal No.611/2000 before this Court, but the same was dismissed by this Court vide order dated 10.04.2003. He further submits that the petitioner has remained in custody for more than 14 years.

3. Learned counsel for the petitioner further submits that being eligible under Rule 9 of the Rajasthan Prisoners (Release on Parole) Rules, 1958 (for short, 'the Rules of 1958'), the petitioner applied for permanent parole. The meeting of the State Level Parole Committee was convened on 13.07.2023, in which the case of the petitioner was considered, but the same was rejected vide order dated 08.08.2023 on the ground that the petitioner has overstayed while he was on parole. He further submitted that the petitioner has availed the regular parole and at present he is in Central Jail, Jodhpur and jail conduct of the petitioner is satisfactory and the Social Welfare Department has also recommended his case for consideration of grant of permanent parole. Thereafter, the petitioner filed a D.B. Criminal Writ Petition



(Parole) No.2072/2023 before this Court which was decided vide order dated 19.10.2023 which read as under:-



“1. Petitioner has preferred this writ petition(parole) seeking permanent parole and for quashing of impugned order dated 08.08.2023 passed by Parole Advisory Committee.

2. It is contended by counsel for the petitioner that petitioner has remained in custody for a period of around 17 years & 6 months including remission. It is also contended that petitioner was entitled to be released on permanent parole, as per Rajasthan Prisoners Release on Parole Rules, 1958(hereinafter referred as 'Rules'). However, his application for permanent release on parole was rejected by the authorities under Rule 14(c) of the Rules.

3. Learned GA-cum-AAG has opposed the writ petition(Parole). It is contended that petitioner has not availed three regular paroles as provided under Rule 9 of the Rules, hence, he is not entitled to be released on permanent parole.

4. We have considered the contentions.

5. The parole application of the petitioner was rejected vide impugned order dated 08.08.2023 in view of Rule 14(c) of the Rules. Rule 14 of the Rules reads as under”-

*14. Ineligibility for release. - The following classes of prisoners will ordinarily not be eligible for release on parole:-*

*(a) persons whose ordinary place of residence is outside the State of Rajasthan or who have been convicted by a Court Martial or a Court of another State;*

*(b) Persons convicted under the Explosive Substances Act, 1908;*

*(c) Prisoners who have escaped from the Jail or Police custody or attempted to escape;*

*(d) Persons who have been convicted for offences under sections 121 to 140, 216A, 302, 303, 311, 328, 332, 364, 386, 387, 388, 389, 392, 393, 394, 395,*



396, 397, 398, 399, 400, 401, 402, 413, 455, 458, 459 and 460 of the Indian Penal Code, 1860; unless they have undergone [one-fourth] of the sentence including remission and the Superintendent of Jail recommends the case in consultation with the District Magistrate with special reasons therefore. In granting parole to prisoners sentenced u/s. 302 I.P.C. the circumstances of the case under which the murder was committed, such as murder committed for possession of land or over honour of women or as a result of family feuds shall be kept in view and favourably considered for parole "



6. A bare perusal of Rule 14(c) of the Rules reveals that the prisoners who have escaped from the jail or police custody or has attempted to escape from custody will not entitled to be released on parole. However, the present petitioner has overstayed after being released on parole and his case would not fall under Rule 14(c) of the Rules.

7. Criminal Writ Petition(Parole) is accordingly, disposed of. The impugned order dated 08.08.2023 passed by the Parole Advisory Committee, therefore, deserves to be quashed and set aside qua the petitioner. We direct the concerned authorities to decide his application for release on permanent parole afresh within a period of four weeks from the date of receipt of this order.

8. A copy of this order be provided to learned GA-cum-AAG for necessary compliance. A copy of this order be also sent to Department of Home (Group-12) Government of Rajasthan."

4. Thereafter, in compliance of the order dated 19.10.2023, the competent authority again considered the case of the petitioner for release on permanent parole and rejected his application vide order dated 13.02.2024 on the ground of overstaying after completion of parole period and taking note of the judgment



passed by the Larger Bench of this Court in D.B. Criminal Reference No.1/2021 order dated 26.08.2021.

5. Thereafter, the petitioner has filed present criminal writ petition challenging the order dated 13.02.2024 passed by the competent authority. Learned counsel for the petitioner submitted that the competent authority has wrongly passed the order dated 13.02.2024, rejecting the application filed by the petitioner for permanent parole. Learned counsel further submits that this Court while deciding the earlier writ petition No.2072/2023 vide order dated 19.10.2023 observed that the present petitioner has overstayed after being released on parole and his case would not fall under Rule 14(c) of the Rules of 1958. Therefore, it is a case of non-application of mind by the competent authority while rejecting the application for permanent parole.

6. Learned counsel further submits that the competent authority has taken into consideration some observation made in D.B. Criminal Reference No.1/2021 decided on 26.08.2021, which relates to the Rajasthan Prisoners Open Air Camp Rules, 1972.

7. Learned counsel for the petitioner has relied upon the judgment passed by the Division Bench of this Court in **D.B. Criminal Writ Petition No.1471/2021: Prahlad Singh Vs. The State of Rajasthan and Ors.**

8. Learned Dy.G.A. appearing on behalf of the State opposed the writ petition and submits that the petitioner has overstayed while he was availing the parole and therefore, he is not entitled for permanent parole.





9. Heard learned counsel for the parties and perused the record.

10. This writ petition filed on behalf of the petitioner deserves to be allowed. For the reasons, firstly, as per nominal role of the Superintendent, Central Jail, Jodhpur, jail conduct of the petitioner is satisfactory, secondly, the petitioner has served the actual sentence for a period of more than 15 years, therefore, the petitioner is entitled for permanent parole as per Rule 9 of the Rules of 1958, thirdly, we are of the view that there is total non-application of mind by the competent authority while rejecting the application for permanent parole vide order dated 13.02.2024 as this Court in earlier writ petition filed on behalf of the petitioner has observed that overstaying of the petitioner after being released on parole would not fall under Rule 14(c) of the Rules of 1958 and lastly, the competent authority has wrongly considered the observations made in D.B. criminal Reference No.1/2021 decided by the Larger Bench of this Court vide order dated 26.08.2024, which relates to the Rajasthan Prisoners Open Air Camp Rules, 1972.

11. In that view of the matter, the writ petition (parole) is allowed. The order dated 13.02.2024 passed by the competent authority (Annexure-6) is quashed and set aside. This Court directs the respondents to release the petitioner namely **Om Prakash S/o Shri Nath Mal Ji** on permanent parole provided he furnishes a personal bond in the sum of Rs.2,00,000/- with two sureties of Rs.1,00,000/- each to the satisfaction of the Superintendent, Central Jail, Jodhpur, if not wanted in any other





criminal case. The Superintendent, Central Jail, Jodhpur may further put any other condition to secure the presence of the petitioner, if need be in accordance with the law. The petitioner is further directed to maintain peace and tranquility during the period of permanent parole.



(ASHUTOSH KUMAR),J

(INDERJEET SINGH),J

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