



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.8916 of 2026
Date of Decision: 15.6.2026

Deep Ram
.....Petitioner
Versus
State of Himachal Pradesh and Others
.....Respondents

Coram:
Hon’ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? ¹

For the Petitioner: Mr. Kulwant Singh Gill, Advocate.
For the Respondents: Mr. Rajan Kahol & Mr. Vishal Panwar, Additional
Advocates General with Mr. Ravi Chauhan,
Deputy Advocate General.

Sandeep Sharma, Judge (oral):
By way of instant petition filed under Article 226 of
Constitution of India, petitioner, who is undergoing sentence at Model
Central Jail, Kanda, has prayed for following main reliefs:
“a) Issue a writ in the nature of Certiorari, or any other appropriate
writ, order, or direction, quashing and setting aside the impugned
administrative noting/order dated 04.04.2026 (Annexure P-2)
passed by Respondent No. 3, whereby the urgent application for
temporary release on parole of the petitioner has been arbitrarily
rejected on the basis of Paragraph 19.12 of the H.P. Prison Manual,
2021.
b) Issue a writ in the nature of Mandamus, or any other appropriate
writ, order, or direction, commanding the Respondents to
immediately process and release the petitioner on parole for the
requested period of 28 days to enable him to effectively attend to,
finance, and provide post-operative care for the scheduled ear
surgery of his wife, Usha Devi, at IGMSC Shimla on 28.05.2026.

¹ Whether the reporters of the local papers may be allowed to see the judgment?

c) Dispense with the requirement of seeking the formal report of the District Magistrate under Rule 3(2) given the extreme paucity of time and the scheduled surgery date, directly ordering release upon furnishing of appropriate surety bonds to the satisfaction of Respondent No.3.”

2. Precisely the facts of the case as emerge from the pleadings as well as other material adduced on record by the respective parties are that FIR No. 83 of 2016 was registered against the petitioner and his wife under Sections 18 & 20 read with Sections 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and vide judgment dated 4.9.2019, passed by the competent court of law, both petitioner as well as his wife, came to be convicted under the aforesaid provisions of law and sentenced to undergo rigorous imprisonment for a period of twenty years each and pay fine of Rs. 4.00 lakh.

3. Pursuant to aforesaid judgment, petitioner as well as his wife are undergoing imprisonment at Model Central Jail Kanda, Shimla. Petitioner has undergone total sentence of nine years, two months and seventeen days, excluding parole period as per certificate of period of detention dated 8.6.2026, placed on record by the respondent-State along with instructions dated 12.6.2026 issued under the signature of Director General (Prisons & Correctional Services) Himachal Pradesh.

4. As per the certificate of period of detention, petitioner herein has been already granted benefit of parole on eight occasions and each time, he after his having completed parole period has surrendered without any complaint. Since wife of the petitioner, who is co-accused in the afore case, has to undergo ear surgery as is evident from the documents

adduced on record by the petitioner, he applied for parole vide application dated 3.4.2026 (Annexure P-1), however same was rejected vide order dated 4.6.2026 (Annexure P-2) on the ground that his fresh prayer for grant of parole cannot be considered before expiry of six months from the date of completion of last parole. In the afore background, petitioner has approached this Court in the instant proceedings, praying therein for reliefs as reproduced herein above.

5. In nutshell, the grouse of the petitioner as has been highlighted in the petition and further canvassed by Mr. Kulwant Singh Gill, Advocate, is that bare perusal of provisions contained in Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968 (in short the "Act") nowhere suggests that prayer, if any, made by the convict for parole prior to the expiry of six months' period from the date of his/her having surrendered after completion of parole granted on previous occasions cannot be accepted. Prayer made by the petitioner for parole could not have been rejected by the respondents that too on the basis of provisions, if any, contained in para 19.12 of the HP Prison Manual 2021 (for short "Prison Manual"). While making this Court peruse clause 19.12 of the Prison Manual, Mr. Gill, further argued that same was otherwise not applicable because it applies to female prisoners only. To substantiate his aforesaid argument, he invited attention of this court to the judgment dated **21.2.2025** passed by coordinate Bench of this Court in **CWP No. 2286 of 2025**, titled as **Prakash Kumar v. State of Himachal Pradesh and Ors.**, reiterating therein finding that embargo or condition in Para 19.12 of the Prison Manual

cannot operate contrary to and dehors the express mandate of Sub Rule 3 of Rule 3 of The Himachal Pradesh Good Conduct Prisoners (Temporary Release) Rules, 1969” (for short ‘Rules’)

6. Mr. Rajan Kahol, learned Additional Advocate General, while supporting the impugned order passed by the respondents vehemently argued that though prayer made by the convict for grant of parole is to be governed in terms of provisions contained in the Act, but procedure for granting parole is specifically provided under Para 19.12 of the Prison Manual, which clearly provides that second prayer for parole can only be considered after a period of six months and actual imprisonment to be counted from the date of his last return from parole. He submitted that since six months’ period after grant of last parole is yet to expire, no illegality can be said to have been committed by the respondents while rejecting the prayer made by the petitioner for parole.

7. I have heard the learned counsel for the parties and gone through the record of the case.

8. Question which needs to be determined in the case at hand is “*whether prayer made by the petitioner for parole can be rejected on the ground that period of six months from the date of his/her surrender after completion of last parole has not expired or not.*”

9. Though in the case at hand, despite sufficient opportunity, respondent-State has not filed reply, but learned Additional Advocate General has placed on record communication dated 12.6.2026 issued under the signature of Director General (Prisons & Correctional Services)

Himachal Pradesh, perusal whereof nowhere suggests that petitioner's conduct during incarceration was not satisfactory, rather same was satisfactory and keeping in view his good conduct, he was granted parole eight times. It is also not case of the respondent-State that during parole time, petitioner ever defaulted or jumped the conditions of the parole, rather every time petitioner surrendered well within time. However, prayer made by the petitioner for parole vide application dated 3.4.2026 (Annexure P-1) has been rejected on the ground that six months after completion of last parole, has not expired. Though this court finds no quarrel with the submissions made by the learned Additional Advocate General that grant of parole is a privilege and not a matter of right of convict, but once provisions contained under the Act entitle a convict to parole subject to the satisfaction of the competent authority coupled with the fact that there is no provision in the Act, which debars him/her from making prayer for parole before expiry of six months from the date of his/her having surrendered after completion of last parole, there was no occasion, if any, for respondent-State to reject the prayer made by the petitioner for grant of parole, especially when it is not in dispute that prayer for fresh parole has been made by the petitioner for getting ear surgery of his wife done.

10. Though at this stage, learned Additional Advocate General, referred to Section 6 of the Act, which provides that notwithstanding anything contained in Sections 3 and 4, no prisoner shall be entitled to be released under this Act, if, on the report of the District Magistrate, the Government or an officer authorized by it in this behalf is satisfied that such

release is likely to endanger the security of the State or the maintenance of public order, but prayer made by the petitioner for grant of parole has been rejected solely on the basis of clause 19.12 of the Prison Manual, which provides that subsequent prayer for parole can only be considered after a period of six months and actual imprisonment, to be counted from the date his return from the last leave. Admittedly, petitioner has not completed six months from the date of return on last parole, but question which needs to be determined in the case at hand is whether mandate contained in the Act can be permitted to be defeated on the basis of provisions, if any, contained in the Prison Manual.

11. Careful perusal of provisions contained in the Act nowhere suggests that prayer, if any made by the convict for grant of parole can be rejected on the ground that he/she has not completed six months from the date of return from the last parole. It is only Section 6 of the Act, which provides that notwithstanding anything contained in Sections 3 and 4, no prisoner shall be entitled to be released under this Act, if, on the report of the District Magistrate, the Government or an officer authorized by it in this behalf is satisfied that such release is likely to endanger the security of the State or the maintenance of public order. Save and except afore provision of law, there is no specific provision in the Act, which debars a convict from fresh parole before completion of six months period from the date of his return from the last leave

12. At this stage, it would be apt to take note of the judgment passed in **Asfaq v. State of Rajasthan and Ors. (2017) 15 SCC 55**,

wherein Hon'ble Apex Court has held that court, while considering the prayer for parole, is not to be swayed by the nature and gravity of offence or the sentence which the convict is undergoing, rather case for grant of parole is to be considered keeping in view the object of granting parole. It is also to be kept in mind that a convict despite being convicted is required to make necessary arrangements for his family as well as his property, be it moveable or immovable. In the instant case, wife of the petitioner who is also undergoing sentence in the same case, is required to undergo ear surgery, for which purpose, petitioner has applied for parole. During arguments, learned Additional Advocate General was unable to dispute that prayer made by the wife of the petitioner for parole has been already accepted, but she has not furnished bonds till date for the reason that it may not be possible for her to get herself operated in the absence of her husband, who though made similar prayer for grant of parole, but same was rejected on the ground that he has not completed six months period from the date of his return from last leave.

13. Interestingly, in the case at hand, prayer of the petitioner for parole has not been rejected on the basis of report, if any, submitted by the District Magistrate, rather such application of him never came to be forwarded to the District Magistrate for comments. Jail authorities while placing reliance upon the Prison Manual proceeded to reject the prayer on the ground that he has not completed six months period from the date of his return from the last leave. Otherwise also, careful perusal of Clause 19.12 of the Prison Manual, sought to be pressed into service by the respondent-

State, is not applicable in the case of the petitioner because same applies to the female prisoners. Leaving everything aside, this court is of the definite view that provisions contained in Prison Manual cannot supersede the provisions contained in the parent Act, which governs the conditions for grant of parole. Coordinate Bench of this Court in similar facts and circumstances had an occasion to deal with similar proposition of law in **Prakash Kumar (supra)**. Relevant paras of the afore judgment read as under:

“ANALYSIS:

6. Taking into account the entirety of the facts and circumstances and Instructions dated 20.02.2025 furnished by State Authorities, this Court is of the considered view, that the prayer for parole, which was dropped/turned down on 6.2.2025 {Annexure F, with Instructions furnished by State Authorities} deserves to be set-aside and the prayer of petitioner for parole is accepted, in view the illness and bed-ridden condition of his mother, for the following reasons :-

6(i). Admittedly, the petitioner is a convict sentenced for rigorous imprisonment for 20 years under ND&PS Act pursuant to the judgment dated 18.9.2023 passed by Learned Special Judge-I, Mandi. The petitioner has undergone 3 years 10 months and 11 days of total sentence [excluding parole] as on 14.02.2025, as per the Custody Certificate on record. Material on record reveals that petitioner was granted 28 days parole from 29.08.2024 to 25.09.2024 and as per the orders dated 31.12.2024 [Annexure D], was again released on parole for 14 days from 31.12.2024 till date of surrender on 23.1.2025 [Annexure G]. However, during the subsistence of earlier parole and due to the unstable health of mother, the petitioner made an application for extension of parole by Email on 15.1.2025 but the prayer was dropped /turned down on 6.2.2025 [Annexure F], on the ground that as per **Para No.19.12 of Himachal Pradesh Prison Manual, 2021**, a convict becomes eligible for second parole “after completion of 6 months of actual imprisonment to be counted from the date of his last return from parole, by asserting it to have been issued in a casual manner and also by totally ignoring the mandate of law, which is illegal.

6(ii). The stand of State Authorities based on Para 19.12 of the Para No 19.12 of Himachal Pradesh Prison Manual, does not pass the test of judicial scrutiny for the reasons, that **firstly**, even on facts of instant case, State Authorities have granted parole to the petitioner twice i.e. for 28 days from 29.08.2024 to 29.05.2024 and was again granted parole for 14 days in terms of orders dated 31.12.2024 to 22.01.2025 ; and **secondly**, once the State Authorities have granted parole to the petitioner twice between the period from August 2024 till January 2025 and without insisting for requirement of expiry of 6 months period then, the action of the State Authorities in dropping the request for parole for 28 days on 6.2.2025 [Annexure F], is not tenable ; and **thirdly**, the State authorities cannot be permitted to take the plea based on Para No 19.12 of Himachal Pradesh Prison Manual when, the State Authorities have themselves given a go by to the same and that too in case of the petitioner herein ; and **fourthly**, State Authorities cannot be permitted to approbate and reprobate qua Para 19.12 of the Manual ; and **fifthly**, once the claim of a convict for parole originates and is governed by the Himachal Pradesh Good Conduct Prisoners [Temporary Release] Act and Rules and the Statute and Rules framed thereunder do not place any embargo or restriction that the second parole cannot be considered/granted before expiry of 6 months period from date of surrender after availing first parole then, any such embargo or restriction cannot be permitted to be invoked on the basis of Para No 19.12 of Himachal Pradesh Prison Manual 2021; and **sixthly**, the embargo or condition sought to be invoked on the basis of Para 19.12 of the Himachal Pradesh Prison Manual defeats the object and intent of parole under Himachal Pradesh Good Conduct Prisoners [Temporary Release] Act and Rules ; and **seventhly**, the embargo or condition in Para 19.12 of the Prison Manual cannot operate contrary to and dehors the express mandate of Sub rule 3 of Rule 3 which provides that in case of second and subsequent release on parole, the Releasing Authority shall be competent to order release a prisoner on parole on the recommendation of Superintendent of Jail provided that the prisoner /convict maintained good behavior during previous release and nothing adverse was reported against him; and **eighthly**, in order to attain the object of the Statute, once the provision of Sub Rule 3 of Rule 3 entitles a convict/prisoner for second or subsequent release on parole Rule 3(3) subject to maintenance of good behavior during previous release and if nothing adverse was reported against him and without any added condition attached thereto then, the provision of Para 19.12 of the Prison Manual, which places a restriction

contrary to the object and intent of the Statute and the express mandate of sub rule 3 of Rule 3 of the Rules cannot be permitted to operate to the prejudice and disadvantage of the petitioner in instant case ; and **ninthly**, once the applicable Statute and Section 6 thereof, bars or disentitles a convict/prisoner for release on parole in specified eventualities i.e. in case the release is likely to endanger the security of the State or maintenance of public order then, the provision of Para 19.12 of the Prison Manual which places a restriction tending to defeat the object/intent and the express mandate of Section 6 of the Act cannot be permitted to operate against the petitioner the in instant case ; and **tenthly**, once the State Authorities have not spelt out any of the eventualities as required under Section 6 of the Act that the temporary release of the petitioner on parole is likely to endanger the security of State or maintenance of public order then, once no such apprehension has been expressed by the State Authorities in the Instructions then, the Impugned Orders dated 6.2.2025 in dropping or in denial or rejection parole to the petitioner in facts of this case is uncalled for being irrational and perverse, which does not stand the test of judicial scrutiny ; and **lastly**, once the object and intent of parole-temporary releasing a convict/prisoner is to enable a convict to establish the social ties which in itself includes the efforts for taking care of his family including the ailing mother as in this case therefore, this Court, in facts of this case is of the considered view that the Impugned Order dated 6.2.2025 [Annexure F] and the action of the State Authorities in denying the parole to the petitioner is uncalled for and that too when, the Learned Counsel, on instructions of the petitioner through her wife states that the mother of the petitioner is still bed-ridden/hospitalized which is borne out from the photograph on record.”

14. Once conduct and behaviour of the petitioner while in custody was good and nothing adverse was reported against him coupled with the fact that there is no provision contained in the Act, which provides for refusal of parole on the ground that period of six months has not lapsed after last return of the convict from the leave, prayer made by the petitioner for grant of parole deserves to be considered.

15. Though this Court is persuaded to agree with learned Additional Advocate General that report of District Magistrate is necessary for grant of parole in terms of Section 3.2 of the Act, but once it is not in dispute that petitioner has prayed for parole for getting his wife operated, who has been already granted benefit of parole coupled with the fact that there is no adverse report against the petitioner and in past also, he has been granted benefit of parole on eight occasions and on every occasion, petitioner has surrendered well within time, this Court sees no reason to reject the prayer of the petitioner for grant of parole on the ground that at the first instance report of District Magistrate is required to be obtained.

16. Consequently, in view of the detailed discussion made herein above as well as law taken into consideration, this Court finds merit in the present petition and accordingly, same is allowed and impugned order dated 4.4.2026 (Annexure P-2) is quashed and set aside. Respondent No. 2 is directed to extend the benefit of parole to the petitioner in terms of application dated 3.4.2026 (Annexure P-1) expeditiously, preferably within one week. The petitioner is ordered to be released on parole for 28 days subject to his furnishing person bond in the sum of Rs. 5.00 lakh with two sureties in the like amount to the satisfaction of the Superintendent of Jail with an undertaking to maintain good conduct during the period of parole and to surrender before the Superintendent of Jail after the expiry of the period of parole. The Probation Officer is also directed to maintain a close watch on the activities of the petitioner and to report any deviation from the direction issued by this Court. The Superintendent Jail is free to impose any

other suitable condition at the time of the release of the petitioner. Pending application(s), if any, shall also stand disposed of.

(Sandeep Sharma),
Judge

June 15, 2026
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High Court of H.P.