



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

ON THE 21st DAY OF JUNE, 2022

BEFORE

HON'BLE MR. JUSTICE VIVEK SINGH THAKUR

**CRIMINAL MISC.PETITION (MAIN) U/S 482 CRPC NO. 470 OF
2022**

Between:-

MOHD. MARGOOB (IN JAIL)

OF SUBJ. MOHD. MAUR

....PETITIONER

(BY SHRI VINOD KUMAR, ADVOCATE)

AND

**1. STATE OF H.P., THROUGH HOME
SECRETARY, SHIMLA-2.**

**2. DIRECTOR GENERAL OF PRISON,
KASUMPTI, SHIMLA-9 H.P.**

...RESPONDENTS

(BY SHRI HEMANT VAID, ADDITIONAL ADVOCATE GENERAL)

Whether approved for reporting? Yes

This petition coming on for admission this day, the Court passed the following:

ORDER

This petition, invoking provision of Section 482 Cr.P.C., has been filed for extension of term of parole granted to petitioner on medical grounds.

2 Grant of parole to a convict/prisoner is governed by provision of H.P. Good Conduct Prisoners (Temporary Release), Act, 1968 and Rules framed thereunder.

3 Omission or commission on the part of concerned authority in granting or rejecting the claim of a prisoner under H.P. Good Conduct Prisoners (Temporary Release) Rules, 1968 is an administrative action, but not an action governed by provisions of Code of Criminal Procedure or any other Criminal Law and therefore, I am of considered opinion that in such a case, instead of filing petition under Section 482 Cr.PC, a petition under Article 226 of Constitution of India shall be maintainable.

4 Faced with aforesaid situation, learned counsel for petitioner seeks permission to withdraw this petition with liberty to file appropriate petition under Article 226 of Constitution of India, with further submissions that till filing of Civil Writ Petition, petitioner may not be subjected to any action by concerned Authorities for not surrendering before concerned Jail Superintendent for expiry of his parole period because he is suffering from serious ailment and is not able to move out from his house and at present, he is at Mujjaffarnagar.

5 Taking into consideration the submissions of learned counsel for petitioner, petition is dismissed as withdrawn with liberty, as prayed for filing afresh comprehensive petition, and in case petition is preferred within a reasonable period and taking into account the peculiar condition of health of petitioner, as placed on record, respondent Authority is directed not to take any coercive action till **15th July, 2022** enabling the petitioner to file an appropriate petition and thereafter, case of petitioner shall be governed by order, if any, passed by Court, in the petition so preferred by petitioner, failing which Authority shall be at liberty to take appropriate action thereafter.

Petition stands disposed of in above terms, so also pending application, if any.

The parties are permitted to produce copy of order downloaded from the High Court website and the concerned authority shall not insist for certified copy of the order, however, they may verify the order from the High Court website or otherwise.

June 21, 2022
(ms)

(Vivek Singh Thakur)
Judge