

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAI PUR BENCH, JAI PUR

ORDER

D. B. CIVIL WRIT PETITION(PAROLE) NO. 16633/2011

SHRI RAM @ SARIYA
VS.
THE STATE OF RAJASTHAN & OTHERS.

DATE OF ORDER : 30.11.2011

HON'BLE MR. JUSTICE NARENDRA KUMAR JAIN-I
HON'BLE MISS. JUSTICE BELA M. TRIVEDI

Mr. Omprakash Choudhary on behalf of Mr. Anshuman Saxena, for the petitioner.
Mr. J.R. Bijarnia, Addl. G.A., for the respondents.

BY THE COURT:

At the request of parties, arguments were heard and parole writ petition is being disposed off finally.

2. The petitioner has preferred this parole writ petition for grant of second parole of 30 days under the provisions of Rajasthan Prisoners Release on Parole Rules, 1958.

3. Learned counsel for the petitioner submitted that from the order impugned in this parole writ petition dated 19th October, 2011/15th November, 2011, it is clear

that parole application of the petitioner was dismissed on the basis of adverse report of Police Superintendent, Sikar, which is based on no evidence. He further submitted that so far as conduct of the petitioner, during jail custody, is concerned, the same is satisfactory. Social Justice and Welfare Department has also recommended the case of the petitioner for grant of second parole. He also submitted that the petitioner was granted first parole of 20 days and his conduct, during first parole period, was also satisfactory. In these circumstances, the District Parole Advisory Committee committed an illegality in rejecting the application of the petitioner.

4. A notice to show cause was given to respondents for filing reply to parole writ petition, but no reply has been filed. Learned Additional Government Advocate argued the matter and submitted that application of the petitioner was dismissed on the basis of report of Superintendent of Police, Sikar to the effect that in case the petitioner is released on parole, then there is a possibility of danger of life to the petitioner from the side of complaint.

5. We have considered the submissions of learned counsel for the parties and examined impugned order and other documents placed on record.

6. There is no dispute that conduct of the petitioner during jail custody is satisfactory, he was granted first parole of 20 days and his conduct, during first parole period, was also satisfactory. The Social Justice and Welfare Department has also given its report in favour of the petitioner for the grant of second parole. The Superintendent of Police, Sikar in its report has mentioned that there is no danger to complainant from the accused, but there can be danger to accused from the side of victim.

7. After considering all the facts and circumstances of the case, we are satisfied that application of the petitioner was wrongly rejected by District Parole Advisory Committee. The petitioner was eligible to be enlarged on second parole, as per provisions of statutory rules of 1958.

8. Consequently, parole writ petition is allowed. Impugned order qua the petitioner is set aside and it is directed

that the petitioner namely Shri ram @ Sariya S/o. Shri Banshidhar Swami be released on second parole of 30 days on furnishing a personal bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousands) with one surety in the like amount by him to the satisfaction of District Magistrate, Sikar. It will be open for the District Magistrate, Sikar to put any other condition to secure presence of the petitioner while releasing him on parole.

9. A copy of this order be sent to the petitioner as well as District Magistrate, Sikar for information/necessary action.

(BELA M. TRIVEDI), J. (NARENDRA KUMAR JAIN-I), J.