

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

JUDGMENT

Gopal Vs. State of Rajasthan & Ors.
D.B. Cr. Parole Writ No.7937/2012

**Writ Petition under Article 226
of the Constitution of India**

Date of Judgment :: August 31, 2012

HON'BLE MR. JUSTICE GOVIND MATHUR
HON'BLE MR. JUSTICE R.S. CHAUHAN

Mr. K.R. Bishnoi, Government Counsel.

(PER HON'BLE MR. R.S. CHAUHAN, J.):

A letter has been received from one Gopal, son of a convicted prisoner, Narayanlal, praying that his father be released on parole on the basis of his own personal bond. The said letter has been treated as a letter petition by this Court.

According to the petitioner, Gopal, his father was convicted for the murder of his mother, by the Addl. Sessions Judge (Fast Track) No.1, Bhilwara, by judgment

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dated 25.11.2004. Despite the fact that his father has served actual sentence of eight years, and has earned a remission of two years, five months and seven days, and despite the fact that he is eligible to be released on first parole of twenty days, but the benefit of parole has not been granted to him. His father has been denied parole on two occasions only because of his inability to furnish two sureties and to submit a personal bond for a large amount. According to the petitioner, his family consists of his sister, his younger brother, and he himself. He has already lost his parental grand-parents. Since his father had killed his mother, his maternal grand-parents are not interested in arranging for any sureties for his father. According to the petitioner, they earn a meager living by working as daily rated workers in the village. Hence, they are not in a position to meet the demand of two sureties, and a personal bond of large amount. Hence, his prayer that his father be released on the basis of his personal bond.

The respondents have claimed that on two occasions, Narayanlal was granted the benefit of parole of twenty days. Firstly, by order dated 23.07.2008, and secondly by order dated 26.10.2009. On both the occasions, he was directed to furnish two sureties of Rupees

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one lac and a personal bond of Rupees two lacs. Since Narayanlal failed to do so, he could not be released on parole. Moreover, in the recent past, he has not applied for being released on parole. Therefore, he has been serving his sentence since 2009 and his case for his parole has not been considered.

In case, a convicted prisoner is eligible for being released on parole, the right to be so released is a substantial right. Such a right cannot be turned into an illusory one by imposing of onerous conditions. Imposition of such conditions is to deny the right to the convicted prisoner. Therefore, on both the occasions, the concerned authority was not justified in imposing the condition of two sureties of Rupees one lac, and a personal bond of Rupees two lacs. Considering the stark poverty rampant in this country, such a condition is not only onerous, but is highly arbitrary.

However, as the convicted prisoner Narayanlal has not applied for the first parole in the last three years, this Court directs the respondents to treat the letter petition as an application filed by Narayanlal for his release on first parole. They are further directed to consider his case within

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a period of one month. In case he is found eligible, he shall be released on reasonable surety amount and on a reasonable personal bond amount.

With these directions, this petition is, hereby, disposed of.

(R.S. CHAUHAN), J.

(GOVIND MATHUR), J.

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