

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN  
AT JAIPUR BENCH, JAIPUR

JUDGMENT

D.B. CIVIL SPECIAL APPEAL (WRIT) NO.720/2015.  
IN  
SB CIVIL WRIT PETITION NO.7918/2015.

1. State of Rajasthan through Secretary, Department of Home, Secretariat, Jaipur.
2. The Superintendent Central Jail, Ajmer, Rajasthan.

Versus

Lekhraj Singh son of Gopal Singh, resident of Police Station Sarwar, Ward No.20, Tehsil Sarwar, District Ajmer through his natural father Gopal Singh s/o Shri Ram Karan, Resident aged 68 years, Police Station Sarwar, Ward No.20, Tehsil Sarwar, District Ajmer (at present confined in Central Jail, Ajmer).

Date of order :

27.10.2016.

PRESENT

HON'BLE MR. JUSTICE K.S. JHAVERI  
HON'BLE MR. JUSTICE MAHENDRA MAHESHWARI

Mr. B.N. Sandoo, Government Advocate for the appellant.

BY THE COURT:

1. By way of this appeal, the State of Rajasthan has challenged the order of the learned Single Judge whereby the learned Single Judge has granted parole in a matter where the accused was involved in NDPS case.
2. It is the case of the petitioner that in view of the order dated 17.04.2012 in the case of Shambhu Dayal Vs. State of Rajasthan & others, the learned Single Judge has observed as under:

“The present petitioner was convicted and sentenced for offence U/s 8 read with 20 of the NDPS Act vide judgment dt.24.11.2008 for ten years rigorous imprisonment and fine of Rs.1 lac. However, criminal appeal-145/2009 filed by the accused petitioner is pending in this Court but the

question arose as to whether Rajasthan Prisoners (Release on Parole) Rules, 1958 are applicable in the facts of the instant case where sentence of imprisonment is for an offence relating to a matter to which executive power of Union extends such as under the NDPS Act and this being the legal question was referred to the Division Bench for consideration and after hearing the parties the question has been decided by the Division Bench vide judgment dt.22.03.2012 and it has been held that Rajasthan Prisoners (Release on Parole) Rules, 1958 are not applicable in such of the cases where conviction is under the NDPS Act and so also where the convict is sentenced to imprisonment for an offence against any law relating to a matter to which the executive power of the Union extends and such cases have to be dealt with in accordance with the Rules of 1955 framed by the Central Government, Ministry of Home Affairs and the second question regarding fine it has been observed that deposit of fine cannot be said to be a condition precedent for consideration of application for parole under the Rules, 1958.

The present petitioner being convicted under the NDPS Act, in the light of judgment dt.22.03.2012, such application filed by the petitioner under the Rajasthan Prisoners (Release on Parole) Rules, 1958 is not maintainable and accordingly stands dismissed.”

3. Inspite of that, the learned Single Judge has granted parole contrary to the decision of the learned Single Judge, referred to hereinabove. Therefore, the appeal was preferred.
4. In our view, the learned Single Judge has seriously committed error in granting parole to an accused involved in NDPS case. In that view of the matter, the appeal is allowed in view of the order of the earlier Single Judge which governs the field and the Rajasthan Prisoners (Release on Parole) Rules, 1958 being not applicable.

5. The appeal is allowed and the order of the learned single Judge is quashed and set aside.

(MAHENDRA MAHESHWARI), J.

(K.S. JHAVERI), J.

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