

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Khuman Singh Vs. Jail Superintendent, Central Jail and ors.

Khuman Singh Vs. Jail Superintendent, Central Jail and ors.

SooperKanoon Citation : sooperkanoon.com/510185

Court : Madhya Pradesh

Decided On : Dec-05-2003

Reported in : 2004(2)MPHT36

Judge : A.M. Sapre, J.

Acts : Madhya Pradesh Prisoners' Release on Probation Act, 1954 - Sections 2; Madhya Pradesh Prisoners' Release on Probation Rules, 1964 - Rules 4 and 6; [Constitution of India](#) - Article 226

Appeal No. : Writ Petition No. 1077/2003

Appellant : Khuman Singh

Respondent : Jail Superintendent, Central Jail and ors.

Advocate for Def. : P. Verma, Govt. Adv. for Respondent Nos. 1 and 2 and ;P.R. Bhatnagar, Adv. for Respondent No. 3

Advocate for Pet/Ap. : Sonali Gupta, Adv.

Disposition : Petition allowed

Judgement :

ORDER

A.M. Sapre, J.

1. By this petition filed under Article 226 of [Constitution of India](#), the petitioner prays for his release on probation under the provisions of M.P. Prisoners' Release on Probation Act, 1954 read with M.P. Prisoners' Release on Probation Rules, 1964.

2. Although, concerned District Magistrate, Superintendent of Police and Jail Superintendent have recommended the case of petitioner for his release on probation in terms of Rules applicable, the Board by impugned order dated 2342-2002 (Annexure P-1) rejected the prayer of petitioner essentially or rather only on the ground that the nature in which the offence was committed by the petitioner does not entitle him to seek his release on probation. It is against this rejection, the petitioner is in writ.

3. Heard Smt. Sonali Gupta, learned Counsel for the petitioner, Shri P. Verma, learned Government Advocate for respondent Nos. 1 and 2 and Shri P.R. Bhatnagar, learned Counsel for respondent No. 3.

4. Having heard learned Counsel for the parties and having gone through with the record of the case, I find substance in the writ and hence, it deserves to be allowed resulting in quashing of order dated 23-12-2002 (Annexure P-1).

5. As noted supra, the only ground on which the petitioner's prayer was rejected by the Board is his role in which, he participated in crime which resulted in his conviction. As also taken note for all other authorities, i.e., D.M. Ratlam and Welfare Office, Ujjain and Superintendent Jail have made recommendations in favour of petitioner for release him on probation. In my opinion though to some extent, the involvement of petitioner in crime may be relevant while looking his antecedent as contemplated in Section 2 of M.P. Prisoner's Release on Probation Act, 1954 but that by itself should not be made as the sole ground to refuse the prayer. It is much more so when all other conditions contemplated in Section 2 read with Rules are fully satisfied by the petitioner. That apart, even while considering the antecedents of petitioner no other incident was taken into account except the incident of crime in which he was convicted.

6. Taking into consideration aforesaid facts, in my opinion, the petitioner is entitled to be released on probation. As a result, petition succeeds and is allowed. Impugned order dated 23-12-2002 (Annexure P-I) is set aside. The petitioner be released on probation by the respondents after ensuring full compliance of rules for a period prescribed for release of any prisoner on probation. Let formalities to that effect be done within one month. State Counsel to send copy of order to respondents for ensuring compliance.

C.C. within three days.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com