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Court : Rajasthan

Decided On : Jun-17-2003

Reported in : 2004CriLJ865; RLW2004(2)Raj1115

Judge : S.K. Keshote, V.J.

Acts : Rajasthan Prisoners Release on Parole Rules, 1958 - Rule 10A(4); Indian Penal Code (IPC) - Sections 302, 364 and 397

Appeal No. : S.B. Civil Writ Petition No. 3310 of 2003

Appellant : Manish Dixit

Respondent : State

Advocate for Def. : Rajendra Yadav, Public Prosecutor

Advocate for Pet/Ap. : R.S. Chauhan, Adv.

Disposition : Petition dismissed

Judgement :

Keshote, V.J.

1. Heard learned counsel for the parties perused the writ petition and its enclosures and reply to the same filed by the respondents.

2. The petitioner was convicted by the learned Sessions Judge, Jaipur City, Jaipur vide judgment dt. 18.9.1995 for the offence under Section 302, 397 and 364 1PC and sentenced him to undergo life imprisonment. The petitioner challenged that judgment of the learned Sessions Judge in this Court vide DB Criminal Appeal No. 501/1998 and that was dismissed. The matter was taken to the Hon'ble Supreme Court is S.L.P and there the petitioner also failed

3. In this petition under Article 226 of the Constitution of India, the petitioner is praying for direction to the non- petitioners to release him on emergency parole for 15 days. The prayer for release is made on the ground that marriage of his brother Vikas is scheduled on 21.6.2003.

4. From the reply to the writ petition, I find that the petitioner is granted more than what it was necessary the indulgence of emergency parole as well as interim bail. By this date, the petitioner as per this reply filed by the respondent has availed the benefit of emergency parole in aggregate for 2 years, 4 months and 14 days. Besides this, the petitioner has also availed the benefit of interim bail for 854 days, out of 7 years of his incarceration. If we go by these facts, the real imprisonment period is less than 7 years.

5. Be that as it may, the Superintendent of Central Jail, Jaipur is not acted illegally or committed any perversity in its decision dt. 19.5.2003 declining the prayer made by the petitioner for his release on emergency parole on the ground of marriage of his brother.

6. First ground given is that in Sub-rule (4) of Rule 10-A of the Rajasthan Prisoners Release on Parole Rules, 1958, there is no provision for release of a convict on emergency parole for a period of 20 days. It is not is dispute that the petitioner has applied for his release on emergency parole for 20 days. It is not in dispute that the mother of the petitioner is alive. On being put by the court it is different matter, the learned counsel for the petitioner stated that she is a house wife. He further stated that his mother is not in a fit physical health. There is nothing on record to show that mother of the petitioner is house wife and she is not in a physically fit condition. Even there is no whisper in this respect in the writ petition. So far as my information goes based on the judicial records, mother of the petitioner Smt.

Pushpa Dixit is an officer in Jaipur Nagar Nigam, Jaipur.

7. Other ground given is correct. The petitioner has not produced any proof of the marriage of his brother before the Jail Authorities. In the Court in this petition also the petitioner has not produced any proof of marriage of his brother. The petitioner produced the document Annexure-1 on record but it is the xerox copy of the wedding card. This is not the primary document. The primary documentary evidence has not been produced and this on this document to reliance can be placed.

8. The learned counsel for the petitioner does not dispute that the validity of Rule 10-A of the Rules of 1958 has not been challenged in this writ petition.

9. Rule (4) of Rule 10-A of the Rules of 1958 makes a provision for grant of parole in emergent cases to the convicts. One of the ground on which this category of parole can be extended to the prisoner is marriage of himself, his/or son or daughter of his/her brothers/sisters in case his/her parents are not alive. The parole to the prisoner under this rule for a period of not exceeding 7 days by Superintendent of Jail and for an period not exceeding 15 days by the Inspector General of Prisons (District Magistrate) can be ordered on such terms and conditions as they may consider necessary to impose.

10. Leaving apart the fact that the petitioner has not produced any proof of marriage of his release on emergency parole for 20 days was legally not sustainable. Apart from this, when his mother is alive as per Rule (4) of Rule 10-A of the Rules 1958, this benefit could not have been extended to him and rightly it is not extended by the Superintendent, Central Jail, Jaipur vide its decision dt. 19.5.2003 in which, there is not illegality which needs to be corrected by this Court.

11. Taking into consideration the totality of the facts of this case, more particularly Rule 10-A of the Rules of 1958 and also keeping in view the fact that the petitioner has not produced any proof of marriage of his brother, the interference of this Court is not called for in the order of the Superintendent, Central Jail, Jaipur dt. 19.5.2003.

12. Accordingly, this writ petition fails and the same is dismissed.

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