

Anil Thakur Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Nov-09-2000

Reported in : 2001(1)WLC460; 2001(1)WLN633

Judge : Arun Madan and; Mohd. Yamin, JJ.

Appeal No. : D.B. Civil Writ Petition No. 4092 of 2000

Appellant : Anil Thakur

Respondent : State of Rajasthan

Disposition : Petition allowed

Judgement :

Arun Madan, J.

1. Heard learned Counsel for the parties.

2. The petitioner was convicted by the Additional Sessions Judge, No. 2, Kota, in Sessions case No. 52/1996 on 12.2.1999 for the offences under Sections 302, 325, 324, 323, 148 read with Section 149 of IPC.

3. We are informed that the petitioner has already remained in jail for about 5 years i.e. 1/4 of actual sentence as per requirement of Rule 9 of the Rajasthan Prisoners Release on Parole Rules, 1958, Rule 9 of the said Rules 1958 which stipulates;

Parole period-A prisoner, who has completed with remission, if any, (one-fourth) of his sentence and subject to good conduct in the Jail, may be released on 1st parole for 20 days including days of journey to home and back, and for 30 days on 2nd parole provided his behaviour has been good during the 1st parole and for 40 days on third parole provided his behaviour has been good during the second parole. If during the third parole also the prisoner has behaved well and his character has been exceedingly well and if the prisoner's conduct has been such that he is not likely to relapse into crime, his case may be recommended to the Government through the (State Committee) for permanent release on parole on such conditions as deemed fit by the Superintendent Jail and the District Magistrate concerned; the chief conditions among them being that if the prisoner while on parole commits any offence or abets, directly, or indirectly, commission of any offence, he has to undergo the unexpired portion of the sentence in addition to any sentence imposed upon him by reason of such an offence. In case the permanent release on parole is rejected, the prisoner will be eligible for release on parole for 40 days every year subject to the same conditions for the remaining period of his sentence.

4. Learned Counsel has also placed reliance on the order passed by the Division Bench of this Court dated 4th July 2000 in the matter of Rajendra Kumar v. State of Rajasthan wherein this Court observed that the convict who is undergoing sentence of imprisonment of life, his prayer for parole cannot be rejected only on the

ground that there is an adverse police report against him. The respondent had failed to satisfy any substantial reason for not releasing the applicant on parole. Simply ipse dixit reason in police report cannot be ground for rejection of prayer of parole. However, requirement of the rules is that prisoner can seek release if he is of good behaviour and nothing is reported adverse to his record. As per the requirement of the rules, he is entitled to be released on parole provided he fulfils the requirement of Rule 9 of the Rules, 1958. Rule 10A of Rules 1958 which stipulates emergent circumstances for release on parole, the same is not presently attracted to the present case. Since the present case can independently be considered as per Rule 9 of the Rules, 1958. As per Annexure 1 which is an order dated 6th May, 2000 passed by the District Parole Advisory Committee, Kota, release of the petitioner on parole has already been recommended by the Superintendent of Jail and also by the Social Welfare Board Kota.

5. The writ petition is allowed and it is directed that the petitioner may be released on parole as per requirement of Rule 9 of the Rules 1958 subject to just and proper conditions which way may be determined by the Superintendent Jail, Kota. A copy of this order be sent to the Superintendent Distt. Jail, Kota for immediately compliance.

6. The writ petition stands disposed of accordingly.

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