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

Nar Singh Vs. State and ors.

Nar Singh Vs. State and ors.

SooperKanoon Citation : sooperkanoon.com/850784

Court : Rajasthan

Decided On : Apr-05-2010

Judge : Ajay Rastogi, J.

Appellant : Nar Singh

Respondent : State and ors.

Disposition : Petition allowed

Judgement :

Ajay Rastogi, J.

1. Letter petition has been sent by prisoner against rejection of his application seeking 1st parole Under Rule 9 of Rajasthan Prisoner's Release on parole Rules, 1958 ('Rules, 1958') on the basis of recommendations made by District Parole Committee (respondents) in its meeting held on 22/10/09.

2. As alleged, petitioner was convicted and sentenced U/Ss 436/149, 452, 148, 427/149, IPC to undergo Five years' RI vide judgment dt. 15/05/2008 passed by Addl. Sess. Judge (Fast Track) Jhalawar, in Sess. Case-49/2007.

3. After completion of 1/4th of sentence petitioner claiming himself as eligible, applied for first regular parole for twenty days which was placed for consideration before District Parole Committee in its meeting held on 22/10/2009 wherein his

case was considered but the Committee rejected his prayer for regular parole on the premise of adverse police report as is evident from order dt. 06/11/09 (Ann.R/3).

4. Notice was issued vide order dt. 18/01/2009. In reply, respondents have not controverted about completion of 1/4th of his sentence, which makes him eligible for grant of regular 1st parole under Rules, 1958 and about any adverse report during his incarceration.

5. It has been averred that the Committee has taken note of nature of the crime, adverse report of Superintendent of Police, depicting reputation of petitioner being not good. But curiously enough, no material has been placed on record to show about petitioner's conduct being unsatisfactory. It was expected from respondents while filing the reply to disclose material on the basis whereof, the authority took decision. Neither the advisory committee's report/order where case of petitioner was considered nor reply of respondents discloses any material, which may dis-entitle him for grant of 1st regular parole under Rules, 1958.

6. Rule 9 of Rules, 1958, clearly manifests that if prisoner who has completed with remission, if any, one fourth of his sentence and subject to good conduct in jail, be considered for first parole for twenty days which includes days of journey to home & back; and even upon his behaviour being good during 1st parole, he can be considered for 2nd parole. Unless he is disqualified as pointed out in Rule 14, what is to be examined by Committee constituted for purposes under Rules, 1958 is to look into his conduct while in prison which has to be given its due weight-age.

7. In instant case, application filed by petitioner for grant of first parole Under Rule 9 was rejected merely based on a negative police report, taken note of by advisory committee in its meeting held on 22/10/09 (Ann.R/3) and the Committee has not assigned any reason except stereotyped averments being made based on report of Superintendent of Police concerned and as regards conduct of petitioner during incarceration, that is found to be satisfactory as per his nominal Roll furnished alongwith reply to instant letter petition, which is one of paramount considerations for grant of parole.

8. It is also not case of respondents that petitioner is facing any other criminal offence /trial. There is no material placed on record by which it can be inferred that if parole is granted, petitioner would again involve in such kind of criminal offences or report of jail authority which may adversely show his antecedents and character while in prison, certainly his case is covered for consideration for release on 1st parole Under Rule 9 of Rules, 1958.

9. In the opinion of this Court, the facts having been taken note of for refusal of 1st parole, in the circumstances of instant case are not legally sustainable.

10. Consequently, writ petition stands allowed and recommendation of Committee in its meeting held on 22/10/2009 (Ann. R/3) qua petitioner is hereby quashed. Superintendent, District Jail, Kota is directed to release petitioner (Nar Singh S/o Onkar Singh) on 1st parole, if not availed of, for twenty days including days of journey to home & back from the date of his release on furnishing his personal bond besides one surety of Rs. 25,000/- to the satisfaction of jail authority with the stipulation that he shall surrender himself and return back to the District Jail, Kota, on expiry of twenty days (supra) to be notified by jail authority, and shall maintain peace & tranquility during 1st parole period. In case of failure to surrender by petitioner on stipulated date, the jail authority shall proceed in accordance with law.

11. A copy of this order be sent to the petitioner through jail authority for compliance. No order as to costs.

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