

Prakash Vs. State and ors.

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Court : Rajasthan

Decided On : Apr-21-2010

Reported in : RLW2010(2)Raj1662

Judge : Ajay Rastogi, J.

Appellant : Prakash

Respondent : State and ors.

Disposition : Petition allowed

Judgement :

Ajay Rastogi, J.

1. Instant petition has been filed seeking emergent parole under Rule 10-A of the Rajasthan Prisoners Release On Parole Rules, 1958 on the premise that the marriage of daughter of the petitioner is going to solemnized on 22/04/2010.

2. Petitioner is serving 10 years' RI in Central Jail, Kota on being convicted by learned Addl. Sess. Judge Ramganj Mandi (Kota) vide judgment dt. 10/09/2008 in Sess. Case No. 6/2005 for offences Under Sections 8/15 of NDPS Act -against which he preferred SB Cr. Appeal pending before the High Court. As alleged in the petition, application was submitted through Superintendent of Jail, Kota to the Inspector General of Prisons, seeking emergent parole on the ground of marriage

of his daughter being solemnized on 22/04/2010. But when respondents failed to pass order of his release on parole as sought for in his application, he has rushed to this Court by way of instant petition.

3. Notices were issued to the respondents on 30/03/2010. Public Prosecutor has submitted report of Superintendent of police, Jhalawar dt. 12/03/2010 wherein this fact has been verified that marriage of accused-petitioner's daughter is going to be solemnized on 22/04/2010.

4. Rule 10-A of Rules, 1958 being relevant is reproduced ad infra:

10-A.(i) Notwithstanding the provisions of rules 3,4,5, 9 & 10, in emergent cases, involving humanitarian consideration viz. (1) critical condition of account of illness of any close relations i.e. Father, mother, wife, husband, children, brother or unmarried sister; (2) death of any such close relation; and (3) serious damage to life or property from any natural calamity; (4) marriage of a prisoner, his/her son or daughter or his her brothers/sisters in case his/ her parents are not alive.

A prisoner may be released on parole for a period not exceeding 7 days by the Superintendent of the Jail and for a period not exceeding 15 days by the Inspector General of Prisons, District Magistrate on such terms and conditions as they may, consider necessary to impose for the security of the prisoner including a guarantee for his return to the jail, acceptance or execution whereof would be a condition precedent to the release of such a prisoner on parole.

5. Rule 10A provides that for emergent parole prisoners can be released for a period not exceeding 7 days by the Jail Superintendent and for a period not exceeding 15 days by the Inspector General Prisons on the terms & conditions as may be considered necessary to impose for the security of the prisoner including a guarantee for his return to the jail. In the instant case, indisputably, the authority has failed to consider application of petitioner for grant of emergent parole u/R. 10A and since this fact has been verified by Superintendent of Police, Jhalawar about marriage of daughter of the petitioner being solemnised on 22/04/2010, this Court considers it appropriate to grant emergent parole to the petitioner U/r 10A of Rules, 1958 for Fifteen days.

6. Consequently, writ petition is allowed. Superintendent, Central Jail, Kota is directed to release petitioner (Prakash S/o Mathura Lal) on emergent parole, if not availed of as yet, for fifteen days including days of journey to home & back from the date of his release on furnishing his personal bond besides one surety each of Rs. 10,000/- to the satisfaction of jail authority with the stipulation that he shall surrender himself and return back to the Central Jail, Kota, on expiry of fifteen days (supra) to be notified by jail authority, and shall maintain peace & tranquility during emergent parole period and will not leave place of marriage without prior permission from Superintendent of Police, concerned who will keep vigil on petitioner asking him to report whenever deemed just during parole period. In case of failure to surrender by petitioner on stipulated date and breach of aforesaid conditions during parole, the jail/police authority shall proceed in accordance with law. No order as to costs. A copy of this order be sent to the petitioner through jail authority.

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