

Fauja Ram Vs. State of Raj

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Court : Rajasthan Jodhpur

Decided On : Jul-11-2012

Appellant : Fauja Ram

Respondent : State of Raj

Judgement :

FloatingFrame 1 IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR S.B. CR. PAROLE WRIT PETITION No.4632/2012 Fauja Ram V/s. State of Rajasthan & Ors. Date of Judgment :: July 11, 2012 HON'BLE MR. JUSTICE R.S. CHAUHAN None for the petitioner. Mr. K.R. Bishnoi PP for the State. A letter has been received from Fauja Ram, a convicted prisoner of Central Jail, Jodhpur. The said letter has been treated as a letter petition by this court. Vide order dated 2nd July, 2012, this court had appointed Mr. Firoz Khan as the amicus curiae in order to argue on behalf of the petitioner. According to letter dated 12.04.2012, the petitioner was convicted for offences of NDPS Act. He was sentenced to ten years of rigorous imprisonment. Since he has returned to the jail after completing first and second regular parole, he claims to be eligible for release on third parole under the Rajasthan Prisoners (Release on Parole) Rules, 1958. Thus, he sent a letter for his third regular parole of forty days. 2 The learned Public Prosecutor has contended that the convicted prisoners of NDPS Act are not covered by the Rajasthan Prisoners (Release on Parole) Rules. For, Rule 1(c) clearly states that the parole rules would not apply to those prisoners who have been convicted under a law to which the executive power of the Union of India extends. Recently in the case of Shambhu Dayal V/s. The State of Rajasthan &

Ors. - D.B. Civil Writ (Parole) Petition No.12294/2011 decided on 22.03.2012, the Division Bench has concluded that the convicted prisoners of NDPS Act are not covered by the Parole Rules of 1958, but are covered by the rules framed by the Central Government. According to the rules framed by the Central Government, the convicted prisoners of NDPS Act are eligible for only urgent parole in case of their ill-health, or in case of ill-health of parents, husband, wife or child. Thus, the petitioner is not entitled to be released on second parole of thirty days. Heard the learned counsel for the parties. In the case of Shambhu Dayal (supra), the learned Division Bench has held as under :- Question No.(1) (1) Whether the Rajasthan Prisoners Release on Parole Rules, 1958 are applicable in the cases where sentence of 3 imprisonment is for an offence relating to a matter to which executive power of Union extends such as under NDPS Act. Answer The Rajasthan Prisoners Release on Parole rules, 1958 are not applicable in the cases where conviction is under NDPS Act and also where convict is sentenced to imprisonment for an offence against any law relating to a matter to which the executive power of the Union extends and such cases have to be dealt with in accordance with the Rules of 1955 framed by the Central Government, Ministry of Home Affairs vide Notification dated 9th November, 1955 published in the Gazette of India, November 19, 1955. A bare perusal of the rules framed by the Central Government prescribes that the convicted prisoner of NDPS Act is entitled to prove only in case of his/her ill- health, or in case of ill-health of parents, husband, wife or child. Thus a convicted prisoner of NDPS Act is not entitled to be released on regular parole under Rule 9 of the Rajasthan Prisoners Release on Parole Rules, 1958. Therefore, this letter petition is devoid of any merit; it is, hereby, dismissed. (R.S. CHAUHAN) J.

A.Asopa/-

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