



2026:CGHC:10224-DB
NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 99 of 2026

Bhupendra Sen S/o Ramnaresh, Aged About 27 Years Convicted Prisoner No. 622/03, R/o Sohagpur, Patel Nagar, Ward No. 16, Police Station- Kotwali, District Shahdol (M.P.)

... **Petitioner**

versus

1 - State of Chhattisgarh Through Secretary, Department of Home, Mantralaya, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District Raipur (C.G.)

2 - Jail Superintendent, Central Jail, Bilaspur, District Bilaspur (C.G.)

3 - District Magistrate, Bilaspur, District Bilaspur (C.G.)

4 - Superintendent of Police, Bilaspur, District Bilaspur (C.G.)

... **Respondents**

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Rajeev Kumar Dubey, Advocate
For Respondents-State	:	Mr. Priyank Rathi, Government Advocate

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

27.02.2026

1. Heard Mr. Rajeev Kumar Dubey, learned counsel for the petitioner and Mr. Priyank Rathi, learned Government Advocate, appearing for the State/respondents.



2. The petitioner has filed this writ petition praying for following reliefs:-

“10.1 That, this Hon'ble Court may be pleased to direct the respondent authorities to release the petitioner on parole.

10.2 That, grant any other relief which may deem fit and proper in the facts and circumstances of the case, in the interest of justice.”

3. Learned counsel for the petitioner submits that the petitioner was convicted for the offence punishable under Section 20(b)(ii)(C) of the NDPS Act and initially sentenced to undergo 15 years' rigorous imprisonment along with fine. The said sentence has already been reduced by this Hon'ble Court in Criminal Appeal No. 437/2019 to 10 years' rigorous imprisonment with proportionate reduction in fine. It is submitted that the petitioner has been in continuous custody since 14.07.2018 and has already undergone more than seven years and six months of incarceration. It is further submitted that the petitioner became eligible for temporary release/parole under the Chhattisgarh Prisoner's Leave Rules, 1989. His application for leave was duly considered and was allowed by the competent authority, subject to fulfillment of prescribed conditions. The petitioner fulfilled all such conditions, including furnishing two sureties as required by the authority. Despite compliance with all prerequisites, the petitioner has not been released on parole, nor has any reasoned order been communicated to him.



4. Learned counsel submits that once the competent authority has granted parole and the petitioner has complied with all stipulated conditions, the respondents cannot withhold his release arbitrarily and without justification. The action of the respondents in not releasing the petitioner, despite approval of leave, is wholly unjustified, arbitrary, and contrary to the statutory scheme of the Prisoner's Leave Rules, 1989. He has placed reliance upon the judgments of the Hon'ble Supreme Court in ***Asfaq vs. State of Rajasthan (2017) 15 SCC 55***, and ***Moti Ram and Others v. State of Madhya Pradesh (1978) 4 SCC 47***. to buttress his submissions.
5. It is argued that the non-release of the petitioner, despite fulfillment of all conditions and absence of any adverse material, violates Articles 14 and 21 of the Constitution of India. The arbitrary inaction of the respondents amounts to denial of the petitioner's right to life and personal liberty, which includes the right to maintain social and familial relationships. Learned counsel therefore prays that the respondent authorities be directed to release the petitioner forthwith on parole/temporary leave in terms of the order already passed by the competent authority.
6. When the case was called out for hearing on 17.02.2026, the Co-ordinate Bench of this Court directed the State to seek instructions in the matter, particularly with regard to the release of the petitioner on parole and the requirement of furnishing local



surety under the amended provisions of the Chhattisgarh Prisoner's Leave Rules, 1989.

7. In pursuance of the query made, Mr. Rathi has placed notification dated 02.11.2025, and pointed out with respect to the General Conditions No.4(e), which reads as follows :-

“4(e) In every case and in all the case, it will also be mandatory for the surety to be from the State of Chhattisgarh.”

8. A bare perusal of General Condition No. 4(e) of the amended Chhattisgarh Prisoner's Leave Rules, 1989 would reveal that in every case it is mandatory for the surety to be from the State of Chhattisgarh. The said condition has been incorporated by way of amendment vide notification dated 02.11.2025 and forms part of the statutory framework governing temporary release of prisoners. Once such a condition is engrafted in the Rules, the same has to be given due effect so long as it remains in force and is not declared ultra vires by a competent Court.
9. In the present case, it is not in dispute that the petitioner has furnished two sureties from Shahdol (M.P.), which is outside the State of Chhattisgarh. The petitioner has admittedly not furnished any surety from within the State of Chhattisgarh, as now mandated by General Condition No. 4(e). Therefore, the competent authority was justified in not effectuating the order of release.



10. The reliance placed by learned counsel for the petitioner on the decision of the Hon'ble Supreme Court in **Asfaq** (supra) and **Moti Ram** (supra) is of no assistance in the peculiar facts of the present case. Those decisions were rendered in a different factual and statutory context and did not deal with a specific statutory rule mandating local surety as a condition for parole under duly amended Prisoner's Leave Rules. The validity of General Condition No. 4(e) has not been specifically challenged in the present writ petition. In absence of any challenge to the vires of the amended Rule, this Court cannot ignore or bypass the express stipulation contained therein.
11. Parole is not an absolute right but a conditional statutory privilege, regulated by the governing rules. The petitioner can claim release only upon strict compliance of the conditions prescribed under the Rules. Since one of the mandatory conditions has not been fulfilled, no fault can be found with the action of the respondent authorities in withholding the actual release of the petitioner.
12. In view of the aforesaid analysis, this Court does not find any arbitrariness or illegality in the action of the respondents warranting interference in exercise of writ jurisdiction under Article 226 of the Constitution of India.
13. However, it is observed that if the petitioner furnishes a surety in conformity with General Condition No. 4(e) of the Rules, the competent authority shall consider and process his release in



accordance with law without unnecessary delay. Accordingly, the writ petition, being devoid of merit, deserves to be and is hereby **dismissed**.

- 14.** There shall be no order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

Anu