



RAJASTHAN HIGH COURT  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN  
BENCH AT JAIPUR**

S.B. Criminal Writ Petition No. 943/2024

Gabbar S/o Bachhu Singh, Aged About 68 Years, R/o Gabbar Ka Adda, Bhahrawati, Chhaura, Police Station Kaulari, District Dholpur (Raj.) (At Present Confined In District Jail Dholpur) Through His Nephew Surendra Kumar S/o Shri Puran Singh, Aged About 34 Years, R/o House No. 744, Sabji Mandi, G.t. Road, Mania, District Dholpur (Raj.).

-----Petitioner

Versus

1. The District Collector, Dholpur.
2. The Jail Superintendent, District Jail, Dholpur.

-----Respondents

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For Petitioner(s) : Mr. Lakhan Singh Tomar  
For Respondent(s) : Mr. Yashwant Khankadia, PP

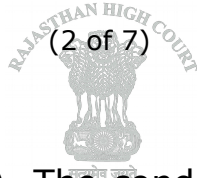
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**HON'BLE MR. JUSTICE ANIL KUMAR UPMAN**

**Order**

**22/05/2024**

1. The instant writ petition has been filed on behalf of the convict-petitioner Gabbar S/o Shri Bachhu Singh for grant of emergent parole on the ground of his poor and ailing health conditions.
2. Learned counsel for the petitioner submits that the application dated 30.01.2024 filed on behalf of the convict-petitioner seeking emergent parole for thirty days for medical treatment, has been dismissed by learned District Magistrate, Dholpur vide order dated 29.04.2024 while referring Rule 11(1) of the Rajasthan Prisoners Release on Parole Rules, 2021. Learned counsel submits that the petitioner is a 68 years old man and is suffering from several ailments including liver



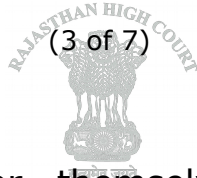
diseases (Hepatitis B Virus). The conduct of the convict-petitioner is also satisfactory in jail. It is also submitted by learned counsel that there is lack of proper medical facilities in jail and therefore, in the interest of justice, the petitioner may be released on emergent parole for at least thirty days on medical ground.

3. Per contra, learned Public Prosecutor vehemently opposes the prayer made by petitioner's counsel. He submits that the learned District Magistrate has rightly dismissed the application of the petitioner as Rule 11 (1) of the Rajasthan Prisoners Release on Parole Rules, 2021, does not entitle him for release on emergent parole.

4. I have heard and considered the submissions advanced at bar and have gone through the material available on record.

5 Parole is an integral part of the correctional process. It is a kind of consideration granted to the prisoners to help them to come back into the mainstream of life. It is nothing but an instrument of social rehabilitation of the prisoner. It provides a second chance to the prisoner to rehabilitate himself. The offender might have committed an offence, but it is not desirable that he always be labeled and must not be given any chance to rehabilitate himself. Its objectives are two fold: the rehabilitation of the offender and the protection of society. It is a means of helping the inmate to become a law-abiding citizen, while at the same time ensuring that he does not misbehave or return to crime.

6. The right of a prisoner to obtain proper medical treatment is recognised as a right under Article 21 (right to protection of life and personal liberty) of the Constitution of India.



Prisoners cannot fend for themselves in their situation of detention, and it is the responsibility of the State to provide for health services and a healthy environment. It is true that Indian Constitution does not recognize a fundamental right to health. However, the Hon'ble Supreme Court has recognized that the right to life subsumes a similar interest, and it has also enshrined a constitutional obligation to provide health facilities to all. Yet the health needs of prisoners have been neglected. The Hon'ble Supreme Court has upheld the protection of prisoners' health in catena of judgments. It reasoned that people in prison suffer a 'dual handicap': not only do they not enjoy equal access to the medical expertise to which free citizens are entitled, they are also more vulnerable to health hazards due to prison surroundings.

7. Hon'ble Supreme Court has held number of times that prisoners are also entitled to take medical treatment in case of serious illness as per his choice under the guidance of expert doctors in healthy environment and for this purpose he can avail the remedy of interim bail or parole.

8. All human beings including prisoners, have certain unalienable rights, which are acknowledged by internationally recognised instruments. Since the Second World War, human rights have been quantified and set down in treaties and conventions. In 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. Later, two covenants were adopted, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These state that prisoners have rights, even when they are deprived of liberty in



custody. The ICCPR specifically provides that "all persons deprived of their liberty should be treated with humanity and with respect for the inherent dignity of the human person".

9. In case of Vishnu Kute & Ors vs State of Maharashtra & Ors. (Criminal Writ Petition No.1464 of 2015, Decided on 02.03.2023), a Division Bench of the Bombay High Court at Aurangabad has recently granted Rs. 10 Lakh compensation to a family of a 32-year-old under trial prisoner who died in the custody of the jail authorities. Court observed that the right to health under Article 21 of the Constitution cannot be ignored particularly of a prisoner. The Division Bench said that the Supreme Court has time and again in several decisions held that the right to life includes the right to live with human dignity."

10. In the present Parole Rules of 2021, in emergent cases pertaining to grave illness, which is life threatening, a convict is entitled to be released on parole. The illness may be of close relative of the convict i.e., father, mother, wife, husband, children, brother or unmarried sister. It is argued that the State has all the rights to put restrictions on release of a convict on parole and the law cannot be said to be violative of Articles 14 or 21 of the Constitution of India. Rule 11 of the Rules of 2021 is reproduced hereinbelow for the sake of ready-reference:-

**"11. Emergent cases.-** (1) Notwithstanding anything contain in rule 5, 6 and 10, in emergent cases, involving humanitarian consideration, such as,-

(i) critical condition on account of illness of any close relative i.e., father, mother, wife, husband, children, brother or unmarried sister;

(ii) death of any such close relative;



(iii) serious damage to life or property from any natural calamity;

(iv) Marriage of a Prisoner, his/her son or daughter or his/her brothers/sister in case his/her parents are not alive; and

(v) delivery of Prisoners wife, a prisoner,

may be released on parole for a period not exceeding seven days by the Superintendent of the Jail and for a period not exceeding fifteen days by the Inspector General of Prisons or 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."

11. I am unable to understand as to why parole cannot be granted in case of serious illness of prisoner himself, especially when he is entitled to parole on the ground of grave illness or critical illness of illness of any close relative i.e, father, mother, wife, husband, children or unmarried sister. Rule 11 of Rules, 2021 has to be given harmonious and true effect and it cannot be interpreted in the manner that there is no provision in rule to grant parole on the ground of illness of the prisoner himself.

12. Beneficial legislation should be interpreted in the widest form and it should be interpreted liberally. The welfare statutes and acts are aimed at improving the economic and social conditions of its people. Legislation that is enacted to protect the public cannot be construed in a narrow manner so as to frustrate its objective. In catena of judgments it has been held that a beneficial statute, as is well known, must receive a liberal interpretation.

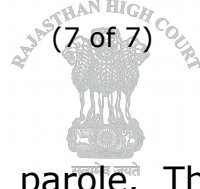
13. The Hon'ble Apex Court in case of **Velamuri Venkata Sivaprasad v. Kothari Venkateswarlu** reported in **JT 1999(9) SC 242** has held that Legislation having a socio-economic perspective ought to be interpreted with the widest possible



connotation, as otherwise, the intention of the legislature would stand frustrated.

14. In the case at hand, the petitioner is 68 years old man and he is suffering from chronic liver diseases and COPD (Chronic Pulmonary Disease with HTN (hypertension). As per the communication dated 19.03.2024 (at page 23), sent by Medical Officer, Jail Dispensary, District Jail, Dholpur to Superintendent, District Jail, Jaipur, it is clearly reflected that the convict-prisoner is being taken to Govt. Hospital at Dholpur as well as SMS, Jaipur for his treatment time to time but despite that, the health condition of the convict-petitioner is not being improved. Though, this Court does not want to make any comments on the medical facilities being provided at Jail, but at the same time, would mention that during my practice as an Advocate, there were two incidents occurred when, my two clients died in jail for lack of proper medical facilities.

15. In view of the above, this Court deems it just and proper to allow the instant criminal writ petition seeking emergent parole. Accordingly, the order dated 29.04.2024 passed by the learned District Magistrate is quashed and set aside and it is hereby directed that the convict-petitioner Gabbar S/o Bachhu Singh shall be released on emergent parole of fifteen days upon his furnishing a personal bond in the sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of Superintendent, District Jail, Dholpur on usual terms and conditions. The Superintendent, District Jail, Dholpur shall be at liberty to impose other adequate and reasonable conditions to ensure return of the convict to the



custody after availing the parole. The term of parole shall be computed from the date of his release on parole.

(ANIL KUMAR UPMAN), J

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