

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

D.B. Criminal Writ Petition No. 505/2022

Vijay Kumar

----Petitioner

Versus

1. State Of Rajasthan, Through Home Depart. Jaipur
2. The Director General (Jail), Jaipur
3. The Distt. Collector, Bikaner
4. The Superintendent Central Jail, Bikaner

----Respondents

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For Petitioner(s) : Mr. Kalu Ram Bhati

For Respondent(s) : Mr. Anil Joshi, AAG assisted by  
Mr. Rajat Chhapparwal.

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**HON'BLE MR. JUSTICE VIJAY BISHNOI  
HON'BLE MR. JUSTICE RAJENDRA PRAKASH SONI**

**Order**

**04/04/2023**

The petitioner has filed this writ petition being aggrieved with the action of the respondents for not considering his application for releasing him on 40 days' regular parole.

The State has filed reply to the writ petition and argued that the petitioner was convicted for the offence punishable under Sections 120 B, 396/120B, 302/120B, 323/120B, 324/120B, 395/120B of IPC and sentenced for life imprisonment by the Additional District and Sessions Judge No.3, Bikaner vide judgment dated 30.08.2017 passed in Sessions Case No.109/2012. It is further argued that since the petitioner has been convicted and sentenced for the offence punishable under

Section 396/120B of IPC, which is prohibited section, and as per Rule 16 (2) (b) of Rajasthan Prisoners Release on Parole Rules, 2021 ('hereinafter to be referred as 'Rules 2021') he is not eligible for grant of parole.

Learned counsel for the petitioner has submitted that the Rules of 2021 came into force on 30.06.2021, whereas the petitioner was convicted on 30.08.2017, therefore, the application for releasing the petitioner on 40 days' parole required to be considered under the Rajasthan Prisoners Release on Parole Rules, 1958 (hereinafter to be referred as 'Rules of 1958') and not under the Rules of 2021. Learned counsel for the petitioner has placed reliance on the decision dated 24.01.2023 rendered by Hon'ble Supreme Court in *Hitesh @ Bavko Shivshankar Dave Vs. State of Gujarat*: [Writ Petition (Criminal) No.467/2022].

It is noticed that in the above referred judgment, the Hon'ble Supreme Court have concluded that the policy of the State on the date of conviction would be the determinative factor and in case the policy is subsequently liberalized, the same would be taken into consideration while dealing with the application for premature release by the Authorities.

In view of the above, we are of the view that the application filed by the petitioner for releasing him on 40 days' parole required to be considered under the Rules of 1958.

In such circumstances, we deem it appropriate to dispose of this criminal parole writ petition with a direction to the respondents to consider and decide the application filed by the petitioner for releasing him on 40days' parole in accordance with

the rules of 1958 within a period one month from the date of production of the certified copy of this order.

Ordered accordingly.

**(RAJENDRA PRAKASH SONI),J**

**(VIJAY BISHNOI),J**

13-nitin/-