

RAJASTHAN PRISONERS RELEASE ON PAROLE RULES, 1958

CONTENTS

1. Title, Commencement & application
 2. Definition
 3. Application for release on parole
 4. The Superintendent, Jail to forward the application to the District Magistrate
 5. Direct Magistrate may reject the application
 6. Conditions for release
 7. Release on bond and security
 8. Journey expenses on parole
 9. Parole period
 - 9A. Parole in Emergent cases
 10. Once in eleven months
 - 10A.
 11. Supervision of probation officer
 12. Parole period regarded as special remission
 13. Aim of parole to encourage good conduct
 14. Ineligibility for release
 15. Computation of sentences
 16. Revocation
 17. Government and the State Committee/District Committee have power to cancel
 18. Punishment for breach of conditions of Parole
 19. General
 20. Re-arrest for commission of offences during parole
 21. Consideration of applications
 - 22.
- Forms I to V

RAJASTHAN PRISONERS RELEASE ON PAROLE RULES, 1958

[Notification No. F. 16 (306) Home 2/54, dated 20-12-1958, published in Rajasthan Gazette, Part IV-C, dated 23-7-1959,] and as amended by-

1. [Notl. No. F. 21 (58) Home/Gr. 8/76, dt. 20-5-1977, Pub. in Raj. Gaz., Pt. IV-C, (I), dt. 9-6-1977, P. 224.]
2. [Notl. No. F. 21 (58)/Home/12-76 dt. 10-8-1978, Pub. in Raj. Gaz., Pt. IV-C (I) dt. 7-6-1979, P. 86.]
3. [Notl. No. F. 18(14) Home/Gr. 12/Kara/82, dt. 17-12-1983, Pub. in Raj. Gaz., Pt. IV-C (I), dt. 5-1-1983, P. 775.]

4. [Noti. No. F. 4(2) Home-12/87, dt. 15-10-90, Pub. In Raj. Gaz., Ordly. Pt. 4(C) (I) dt. 28-5-92, P. 221.]

5. [Noti. No. F. 4(2) Home-12/Kara/87, dt. 25-5-1994, Pub. In Raj. Gaz., Pt. 4 (2A) dt. 1-6-1994, P. 25 (2A)]

In exercise of the powers conferred by sub-section (6) of Section 401 of the Code of Criminal Procedure, 1898 (Act V of 1898), the Government of Rajasthan is pleased to make the following rules, namely:-

1. Title, Commencement & application.-(a) These Rules will be called Rajasthan Prisoners Release on Parole Rules, 1958;

(b) They shall come into force on the date of their publication in the Official Gazette;

(c) These rules shall not apply to persons under a sentence of imprisonment for an offence against any law relating to a matter to which the executive power of the Union of India extends and such persons shall be governed by the Central Rules made under Notification of the Government of India, Ministry of Home Affairs No. 40/32/55-Judl. 1, dated the 9th November reproduced in the Appendix to these rules.

COMMENTARY

General Rules

1. General.-Powers of Executive.-The executive has sufficient powers to deal with the applications for grant of parole and that they should exercise their powers and not force the prisoners to approach the High Court for grant of parole even in emergent cases like death of mother or father, serious illness of a family member, marriage of a close relation or to attend a family member who is sick or has died or he has to appear in some examination or there has been loss or damage to the property on account of natural calamity. Applications for parole in such circumstances have to be considered by the Jail Superintendent, I.G. Prisons and if necessary by the District Magistrate expeditiously so that the prisoners may not have to approach the High Court for release on petty grounds. The Executive Authorities have means to find out the correctness of the grounds on which parole is sought while the High Court has to depend upon the information furnished by the Government Advocate which in all cases is practically nil and the High Court has to deal with petitions for release on parole without being able to verify the correctness of the grounds. A large number of applications coming up before the High Court ought to have been disposed by the executive authorities.

Release on parole for a short period or even the permanent release on parole is not very much different from the shortening of sentence. In cases of temporary release on parole, a prisoner has to surrender and undergo the remaining period of his sentence while in cases where the sentence has been shortened, the punishment is complete but he can be rearrested when the release is constitutional and he commits the breach of the terms

of release as contained in Form No. 11 appended to the Rules. After permanent release on parole also, a person can be ordered to undergo the unexpired part of his sentence in case he commits the breach of the conditions. The permanent release on parole is always conditional, as the effect of a permanent parole is the commutation or remittance of the sentence this benefit shall be available to prisoners convicted of offences for which death sentence is also one of the sentences but he is to be released only after undergoing 14 years' actual punishment as the rules cannot override the provisions of the Code. *Lakhi v. State of Rajasthan*, 1996 (2) WLC 613=1995 (1) RLR 684=1995 RCC 644=1996 (2) RLW 200 (Raj.)(DB).

2. Applicability to convict of NDPS Act.-[1] The Narcotic Drugs and Psychotropic Substances Act, 1985 being a Central Act, in view of S.432 Cr.P.C., statutory rules relating to release of convict of NDPS act on parole can be framed only by Central Government. Prayer of persons convicted under the said Act can be considered only under rules framed in that regard by the Central Government. Till such rules are framed, certain guide lines provided by the Court for releasing a convict of NDPS Act on parole or transferring to open Jail. *State of Rajasthan v. Mana Singh*, 2002 (2) RLR 285=2002 (2) WLN 719=2002 (1) CDR 592 (Raj.)(DB).

[2] See also: *Samiullah v. State of Rajasthan*, 2002 (4) WLN 456=2002 (1) RLR 41 (Raj.)(DB).

2. Definition.- In these rules unless there is anything repugnant in the subject or context,—

¹[(a) "The Act" means the Code of Criminal Procedure, 1973 (Act No. 2 of 1974).

(b) "Superintendent" means the Superintendent of a Jail in which a convict to be released on parole under the Act is confined;

(c) "Government" means the Government of Rajasthan;

²(d) "Parole" means conditional enlargement of a prisoner from the Jail under these rules.

(e) "Probation Officer" means any officer or a person so appointed by the Government for the purpose of looking after a prisoner who has been released on parole.

³[(f) Prisoners Parole Advisory Committee (hereinafter referred to as "State Government") means a committee consisting of the following which will make recommendation to the govt. for the release of those prisoners on parole whose cases do not fall within the purview of the

¹ Subn. by Notn. of 15-10-90.

² Subn. by Notn. of 15-10-90.

³ Ins. by Notn. of 1977 and Subn. by that of 1978.

District Parole Advisory Committee and decided (i) as to release of those prisoners on parole in respect of whom the functions of the District Parole Advisory Committee have been assigned to the State Committee, (ii) revocation of the orders of prisoners released on parole, and (iii) other like matters arising under the rules which State Committee is required to deal with:—

- | | |
|--|----------|
| 1. Inspector General of Prisons, Rajasthan | Chairman |
| 2. Dy. Secretary to Government Home (Jails) Department | Member |
| ¹ [3. Dy. Inspector General of Prisons (Concerned Zone) | Member] |
| 4. Prison Psychologist | Member |
| 5. Chief Probation Officer | Member |

The quorum for transacting the business of the committee will be three including the Chairman.]

²["(g) District Parole Advisory Committee means a committee consisting of the following which will decide as to release of the Prisoners on First, Second and Third parole revocation of the orders of Prisoners released on parole and other like matters arising under the rules which the District Parole Advisory Committee (hereinafter be referred to as "District Committee" is required to deal with:—

- | | |
|---|----------|
| 1. District Magistrate | Chairman |
| 2. Superintendent of Police | Member |
| 3. Superintendent/ Dy. Superintendent, Jail | Member |
| 4. Probation Officer | Member |

The quorum for transacting the business of the Committee shall be two including the Chairman. Where the Chairman is unable to attend the meeting of the Committee, the proceedings of the Committee shall be forwarded to the Chairman for his approval. In case the Chairman decides to consider in the next meeting of the Committee which shall be attended by the Chairman also".

COMMENTARY

Clause (g)- Decision by committee attended by unauthorised persons. The meeting was attended by two unauthorised persons. An Additional S.P. cannot attend such a meeting in place of S.P. Presence of Legal Remembrancer was also without authority. Any decision taken by a committee so constituted has no value. Direction given for reconstitution of committee and taking fresh decision. *Birbal Maharia v. Director General of Prisons*, 2000 (3) WLC (Raj.) 189=2000 Cr.LJ 4205 (Raj.).

¹ Subs. by Nott. of 15-10-1990.

² Ins. by Nott. of 1978.

3. **Application for release on parole.**- A prisoner sentenced to imprisonment for not less than one year may, subject to exceptionally good behaviour, be allowed by the Superintendent Jail, in which he is confined, to submit application for parole in triplicate in Form I.

COMMENTARY

Parole refused without considering grounds for refusal thereof. Other relevant aspects not considered. Reports of police which was thoroughly vague and common relied on. Nothing adverse against conduct of petitioner. Petitioner not a habitual offender. Authorities directed to reconsider the matter. *Abdul Wahid v. State of Rajasthan, 1997 (3) WLC 406 (Raj.) (DB).*

4. **The Superintendent, Jail to forward the application to the District Magistrate.**- The Superintendent of Jail concerned will enter the application in a register in Form II and will put his remarks on the application regarding condition of release and the prisoners conduct in the Jail etc. on the application of the prisoner and would forward one copy of it in original to the District Magistrate of the District in whose jurisdiction the prisoner wants to spend his parole period and one copy of the application will be sent to the Probation Officer. The District Magistrate shall enter the application in a register in Form III.

5. **Direct Magistrate may reject the application or forward the same to the [appropriate Committee].** (a) After consulting the Probation Officer where appointed and if felt necessary the Superintendent Police of the District Magistrate concerned will give his remarks, whether the convict in question should be released on Parole or not. In case the District Magistrate raises no objection to let off the prisoner on parole, he would send all the papers in original to the [State Committee or District Committee as the case may be] for orders stating the conditions on which the prisoner may be released on parole. In case the District Magistrate disapproves of the release, the application will be sent to the Superintendent Jail concerned, stating the reasons of disapproval.

(b) When the [State Committee/District Committee] receives the recommendation of the District Magistrate, it may consult the Presiding Judge of the Court before or by which the conviction was had or confined under [Section 432 of the Act], and may accept or reject the application.

1 Subs. by Noll. of 1978.

2 Subs. by Noll. of 1978.

3 Subs. by Noll. or 15-10-90.

C O M M E N T A R Y

1. **Decision illegal.**-As stated above in Rule 2(g), if a meeting is not attended by some persons who are members and it is attended by those who are not authorized, the decision taken in such a meeting is illegal. Direction for reconstitution of meeting and taking fresh decision given. *Bhuri Singh v. State*, 2000 (2) RLR 513=2000 (4) RLW 175=2001 (1) WLN 558 (Raj.). See also case under S.2, 2000 (3) WLC 189 (Raj.).

2. **Procedural steps.**-On the report of District Magistrate, District Parole Committee or State Parole Committee recommends the case for release. *Parasram v. State of Rajasthan*, 2002 (1) WLC 429=2002 (1) CDR 101 (Raj.)(DB).

6. **Conditions for release.**- If the *¹[State Committee/District Committee] accepts the recommendation of the District Magistrate, the prisoner shall be released on parole on such conditions and for such period as the ¹[State Committee/District Committee] may direct. The order of release will be in Form IV.

7. **Release on bond and security.**¹The Superintendent of Jail will release the prisoner on parole when he has furnished personal bond and security to the District Magistrate and has thoroughly understood the conditions of his release while on parole or any other condition which the District Magistrate may like to impose on such prisoner.

8. **Journey expenses on parole.**- The prisoner shall bear the journey expenses from and to the Jail. In cases of destitute prisoners, Government may bear the cost of the prisoners journey from and to the Jail. This concession will only be granted when the prisoner's family is so poor that they cannot meet his travelling expenses which should be mentioned in the application for parole giving at the same time the reasons therefor. In such cases the District Magistrate may cause enquiries to be made as regards the prisoner's financial position and state whether the concession should be allowed or not.

9. **Parole period.**- A prisoner, who has completed with remission, if any, ²[one-fourth] of his sentence and subject to good conduct in the Jail, may be released on 1st parole for 20 days including days of journey to home and back, and for 30 days on 2nd parole provided his behaviour has been good during the 1st parole and for 40 days on third parole provided his behaviour has been good during the second parole. If during the third parole also the prisoner has behaved well and his character has been exceedingly well and if the prisoner's conduct has been such that he is not likely to relapse into crime, his case may be

¹ Subs. by Notif. of 1978.

² Subs. by Notif. of 1977.

recommended to the Government through the ¹[State Committee] for permanent release on parole on such conditions as deemed fit by the Superintendent Jail and the District Magistrate concerned; the chief condition among them being that if the prisoner while on parole commits any offence or abets, directly or indirectly, commission of any offence, he has to undergo the unexpired portion of the sentence in addition to any sentence imposed upon him by reason of such an offence. In case the permanent release on parole is rejected, the prisoner will be eligible for release on parole for 40 days every year subject to the same conditions for the remaining period of his sentence:

²[Provided that cases of prisoners who have been sentenced to imprisonment for life, for an offence for which death penalty is one of the punishments provided by law or who have been sentenced to death but this sentence has been commuted under Section 433 of Code of Criminal Procedure into one of life imprisonment shall not be placed before the State Committee for permanent release on parole unless he has served 14 years of imprisonment excluding remission, but including the period of detention passed during enquiry, investigation or trial. Such prisoners may be released on parole for 40 days every year for the remaining period of their sentence subject to the conditions stated above.]

COMMENTARY

1. Refusal of parole not justified-District Magistrate should examine matter.-[1] In the instant case, the police report apprehended breach of peace if the prisoner was released on parole but there was no material to support the apprehension and the District Magistrate, mechanically supported the report of the Police, though it was necessary for the District Magistrate to examine the matter afresh on the basis of the report of the Superintendent. In *Anil Thankur v. State of Rajasthan* [2001 WLC 460 (Raj.)], it was held that release of a convict cannot be refused merely on ipse dixit of police report. The conduct of the convict in the instant case in Jail was not bad and there was no reason to refuse release on parole. *Parasram v. State of Rajasthan*, 2002 (1) WLC 429=2002 (1) CDR 101 (Raj.)(DB).

[2] Release of a convict cannot be refused merely on ipse dixit of police report. Petitioner directed to be released subject to just and proper conditions. *Anil Thankur v. State of Rajasthan*, 2001 WLC 460 (Raj.).

[3] Petitioner convicted under S.302 IPC. Case falling under Rule 14. Recommendation against petitioner made by Superintendent of Jail without consulting District Magistrate. The Superintendent was directed to consult District Magistrate and consider his case afresh. *Ashanand v.*

¹ Subs. by Notif. of 1978.

² Added by Notif. of 26-5-94.

State of Rajasthan, 2000 (1) WLC 540(Raj.)(DB).

2. Rr.9,10 & 12- Release not a vested right-Discretion of Advisory Board.-The convict who applies for his premature release does not have an absolute vested right to claim the same. It is upto the discretion of Advisory Board to recommend or not to recommend the premature release of a convict since the same is subject to fulfilment of the conditions stipulated under the rules. What is required of the Advisory Board to carefully scrutinise and consider the material placed before it, and also to examine objectively the reports of law enforcing agency particularly, the conduct and character of the convict who is recommended for premature release before arriving at the decision which would be dependent upon overall assessment of the matter by the Advisory Board. On consideration in accordance with rules, the Advisory Board may in appropriate cases recommend the release of a convict prematurely, subject to imposition of any condition or stipulation as it may deem just and proper to impose upon under facts and circumstances of each particular case.

It is nevertheless obligatory on the State Government as per rule 10 & 10A to consider the recommendations of the Advisory Board before directing premature release of a convict and further under rule 12, the appropriate authority shall order release of the prisoner having regard to all the facts and circumstances of the case on the basis of overall assessment of the matter and recommend his premature release if he is entitled to be so released on the basis of his having earned any special remission sanctioned by the appropriate authority under section 401 of the Act. *Smt. Prem Saini v. State of Rajasthan, 1999 (2) WLC 415 (Raj.)(DB).*

3. General.-Convict completing more than one-fourth of sentence- Nothing adverse against conduct and behaviour of petitioner- Parole required for looking after ailing mother-Authorities directed to consider petitioner's case and to release him on befitting terms. *Mangu v. Mangilal, 1998 (1) WLC 376 (Raj.)(DB).*

9A. Parole in Emergent Cases.- In Emergent cases the Superintendent of Jail shall grant parole up to a period of 7 days only subject to confirmation by the Inspector General of Prisons, and for a period of not more than 15 days by the Inspector General of Prisons.]

10. Once in eleven months.- No second and subsequent release on parole shall be made unless eleven months have elapsed from the date of the expiry of the period of release on parole immediately preceding.

¹ Ins. by Notif. No. F. 4(17) (4) HB/Gr. II/63, dt. 25-3-1966, Pub. in Raj. Gaz. Pt. IV-C, Ordinary, dt. 26-6-1966, but the same rule 9A was deleted by Notification No. F. (1) (14) (10 HB/Gr. II, Kanagar 68, dt. 29-5-1970, Pub. in Raj. Gaz., Part IV-C (I), dt. 16-7-1970, p. 292.

✓ 10A. (i) Notwithstanding the provisions of rules ²[3, 4, 5.] 9 and 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 un-married sister; (2) death of any such close relation; and (3) serious damage to life or property from any natural calamity.

✓ ³[(4) Marriage of a Prisoner, his/her son or daughter or his/here brothers/sisters in case his/her parents are not alive.]

✓ A prisoner ⁴[x x x]. ⁵[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 ⁶[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.

✓ (ii) A copy of the order for release of prisoners on parole shall be endorsed to the next higher authority giving full circumstances under which the parole has been allowed.]

✓ ⁷[In case the next higher authority does not approve the grant of parole, he may ask the authority granting the parole to revoke the same who shall act accordingly.]

COMMENTARY

1. Interpretation.-[1] The parole under this rule involves humanitarian considerations. The words used should be given wide and beneficial interpretation. Parole may be granted for preparation for or to appear in examination. *Ramesh v. State*, 1991 (2) RLR 378=1992 (1) WLC 284=1992 RCC 156.

[2] Mother of prisoner in critical condition in hospital. Petitioner released on parole of 4 weeks on personal bond of Rs.5,000/- with one surety in like amount. *Kishanlal v. State of Rajasthan*, 1998 WLC UC 767 (Raj.)(DB).

2. Object of.-The aim for the grant of parole to a convict is to encourage his good conduct. The object of the parole is that prisoners should not feel that they are not the members of the society and they should be allowed to mix up with their kith and kins.

1 Ins. by Notl. of 29-5-70.

2 Ins. by Notl of 1978.

3 Ins. by Notl. of 1983.

4 Deleted by Notl. of 1978.

5 Subs. by Notl of 1978.

6 Subs. by Notl. of 1978.

7 Subs. by Notl. of 1978.

Where the daughter and mother were suffering from serious ailments and the accused has undergone 8 years imprisonment. The petitioner is entitled to parole and should not be denied the concession simply for the reason that his co-accused did not surrender after he was released on bail. *Smt. Sushila Kanwar v. State of Rajasthan*, 1994 (1) RLW 469=1994 (2) WLC 647=1994 RCC 564=1994 (2) WLN 599.

3. Parole by High Court.—Normally no petition should be entertained either under Article 226 of the Constitution or under Section 482 of the Criminal Procedure Code for grant of parole unless the prisoner has approached to the concerned authority. *Ramesh v. State*, 1991 (2) RLR 378=1992 (1) WLC-284=1992 RCC 156.

11. Supervision of probation officer.—(a) In course of release on parole except the permanent release, the prisoner shall remain under supervision of a guardian approved by the ¹[State Committee/District Committee] who shall report any breach of the conditions of parole to the District Magistrate concerned.

(b) In case of permanent release on parole the prisoner should be under the supervision of a probation officer, where appointed. The supervision of a probation officer will be for the unexpired period of sentence allowed to be spent or parole.

12. Parole period regarded as imprisonment served.—The period for which a prisoner stays on parole under Rule 9, without violating the conditions laid down for the purpose, shall be treated as imprisonment served by him. All other kinds of parole shall be treated as sentence suspended.

13. Aim of parole to encourage good conduct.—The grant of parole should be regarded as occasion to encourage good conduct and it shall not be claimed by prisoners as a matter of right.

14. Ineligibility for release.—The following clauses of prisoners will ordinarily not be eligible for release on parole.

- (a) Persons whose ordinary place of residence is outside the State of Rajasthan or who have been convicted by a court Martial or a Court of another State;
- (b) Persons convicted under the Explosive Substances Act, 1908;
- (c) Prisoners who have escaped from the Jail or Police custody or attempted to escape;
- (d) Persons who have been convicted for offences under Sections 121 to 140, 216A, 302, 303, 311, 328, 332, 364, 386, 387, 388, 389, 392, 393, 394, 395, 396, 397, 398, 399, 400,

¹ Subs. by Notif. of 1978.

² Subs. by Notif. of 15-10-90.

401, 402, 413, 455, 458, 459 and 460 of the Indian Penal Code, 1860:

unless they have undergone ¹[one fourth] of the sentence including remission and the Superintendent of Jail recommends the case in consultation with the District Magistrate with special reasons therefor. In granting parole to prisoners sentenced u/s, 302, IPC, the circumstances of the case under which the murder was committed, such as murder committed for possession of land or over honour of women or as a result of family feuds shall be kept in view and favourably considered for parole.

COMMENTARY

1. Release of for the fourth time-Requirements.-Where the petitioner was already granted leave on parole three times before, it was necessary for him to apply freshly. Where he states in his application that his house property has been damaged then on being satisfied about the fact alleged, he should be parole should be granted to the petitioner to enable him to reconstruct or repair his damaged house. *Barkat Ali v. State*, 1989 WLN UC 427.

2. Release on parole-Person convicted of an offence of the category specified in Rule 14-Condition under Rule 10-A satisfied-Should be released on parole.-There is every justification for saying that ordinarily the persons who are convicted for an offence specified in Rule 14 may not be given the benefit of parole without fulfilment of the condition of having undergone 1/4th of the sentence including remission. However, the term 'ordinarily' if construed in contradistinction to extraordinary situation, it will be clear that there is no conflict between Rule 10-A and Rule 14. Rule 10A deals with emergent cases involving humanitarian considerations. This carves out an exception to other rules. Where conditions of Rule 10A are satisfied, the applicant is entitled to be released on parole. *Kishan v. State of Rajasthan*, 1990 (1) RLR 652.

3. Scope and Constitutional Validity of the rule.-[1] The use of negative expression, qualified with word "Ordinarily" coupled with providing conditions in which conditions for exception to ordinarily envisaged prohibition has been stated, leave no room of doubt that Rules 14 does not create an absolute bar against considering the applications for release on parole by a convict who falls in any of the category mentioned in Clauses (a) to (d) of the rule. Words of rule 14 are expression with "ordinarily" and the conditions for release of the persons, who have been named in clause (a) and (b) are to be considered only on conditions specified in the later part of the said rule.

The expression "unless" denotes that the persons falling in any of category (a) to (d) cannot be considered for release on parole, unless they have undergone 1/4th of the sentence including remission and release on

¹ Subn. by Noll. of 1977.

parole can take place only if Superintendent of Jail recommends the case in consultation with the District Magistrate with special reasons therefor.

This conveys that ordinarily the class of prisoners (a) to (d) will not be eligible for release on parole but if they have undergone 1/4th of the sentence including remission the application for release on parole becomes liable to be considered. Such consideration which must take place by the Superintendent of Jail in consultation with District Magistrate, if on such consideration the Jail Superintendent finds that there exist any special reason to release a person falling in category (a) to (d), such convict applicant can be released on parole, otherwise not.

Thus, there is no absolute impediment in considering the application for release of person falling in category (a) to (d), after they have undergone 1/4 of the sentence. Therefore, there is no discrimination affecting the fundamental rights of the prisoners as a class under Articles 14, 15 and 21 of the Constitution. *Mohanlal v. State of Rajasthan*, 2002 (2) WLC 484=2002 (2) RLR 383=2002 (2) WLN 615 (Raj.)(DB).

[2] Rule prohibiting release of prisoner resident of other State in comparison to local prisoners on parole make geographical discrimination and is therefore violative of Arts. 14 and 21 to the extent of "persons who ordinary place of residence is outside State of Rajasthan". *Omprakash v. State of Rajasthan*, 2002 (2) WLC 491=2002 (2) RLR 292=2002 (3) WLN 61 (Raj.)(DB).

[3] Authorities directed to consider the applicant's case afresh in the light of judgment given in Omprakash's case quoted above. *Nawab Husain v. State of Rajasthan*, 2002 (2) WLN 21.

[4] Petitioner convicted under S.302 IPC. Case falling under Rule 14. Recommendation against petitioner made by Superintendent of Jail without consulting District Magistrate. The Superintendent was directed to consult District Magistrate and consider his case afresh. *Ashanand v. State of Rajasthan*, 2000 (1) WLC 540(Raj.)(DB).

✓ **15. Computation of sentences.**- For the purpose of these rules the following principles shall be observed in computing the period of sentence of imprisonment, namely:—

(a) When a prisoner has been sentenced to several terms of imprisonment for several offences, and the sentences of imprisonment have been ordered to run concurrently, then the longest single sentence which the prisoner is undergoing shall be deemed to the term of his imprisonment;

(b) When a prisoner has been sentenced to several terms of imprisonment for several offences and the sentences of imprisonment have been ordered to run consecutively, the total period which the prisoner is to under go shall be deemed to be the term of his imprisonment;

(c) Remission already earned by the prisoners ¹[x x x] shall be counted as imprisonment served by him; and

(d) Life sentences shall ²[for the purposes of these rules] be reckoned as 20 years.

Explanation.—The expression "Sentence of imprisonment" in these rules shall include imprisonment in default of payment of fine and imprisonment for failure to furnish security under Chapter VIII of the Act.

COMMENTARY

Under rule 15(c), remission already earned by the prisoner as well as the period of release on parole shall be counted as imprisonment served by him. *Lakhi v. State of Rajasthan*, 1996 (2) WLC 613=1995 (1) RLR 684=1995 RCC 644=1996 (2) RLW 200 (Raj.)(DB).

16. Revocation.—(1) The District Magistrate, on receiving information from the probation officer or any other source, of the breach by the prisoner of the conditions of parole, shall serve a notice on him, to show cause why his parole should not be revoked. If the prisoner presents him self in response to the notice then, after hearing him and if he does not present himself, then without hearing him, the District Magistrate may request the ³[State Committee/District Committee] for revocation of the prisoner's parole.

(ii) In case the District Magistrate decides to recommend the revocation of the parole, he may, at the same time, if he considers that prisoner is unfit to be allowed to remain at large under parole, order his arrest and detention in the Jail from which he was released pending the receipt of the order of the ⁴[State Committee/District Committee]

(iii) the ⁵[State Committee/District Committee] shall, on receipt of the District Magistrates recommendation, pass such orders as it may deem proper. In case of revocation an order under Section 401 (3) of the Act shall be issued by the ⁶[State Committee/District Committee] in Form V.

¹ Deleted by Notl. of 15-10-90.

² Ins. by Notl. of 15-10-90.

³ Subs. by Notl. of 1978.

⁴ Subs. by Notl. of 1978.

⁵ Subs. by Notl. of 1978.

⁶ Subs. by Notl. of 1978.

17. Government and the ²[State Committee/District Committee] have power to cancel.-(a) The ³[State Committee/District Committee] can cancel the grant of parole during the period of parole, whenever it thinks proper to do so.]

⁴[(b) The Government can also cancel the grant of parole during the period of parole, whenever it thinks proper to do so.]

18. Punishment for breach of conditions of Parole.- The following punishments may be awarded to the prisoners for over staying their sanctioned parole period or for breach of any other conditions laid down namely:—

- (i) He should not be let off on parole in future unless the Superintendent of Jail is fully satisfied that he will not commit any breach of condition in future.
- (ii) In case the prisoner is released on the recommendation of the Superintendent of Jail concerned after the breach of condition, the period of release of parole would be 7 days excluding days of journey to home and back. The next parole will be 15 days (provided he has behaved himself well during the period) and 30 days in the fourth parole.
- (iii) If the prisoner again over-stays or commits any breach of the terms of the parole, he shall be permanently debarred from the concession of release on parole.

19. General.- If a prisoner does not surrender himself on the expiry of the parole without sufficient reasons therefor, he may be arrested by any police officer without a warrant and shall be remanded to undergo the unexpired portion of his sentence.

20. Re-arrest for commission of offences during parole.- If the prisoner commits any fresh offense during his parole period, he shall be re-arrested and shall undergo the unexpired portion of his sentence besides and other sentence that may be awarded to him.

21. Consideration of applications.- For the prompt disposal of application regarding release of prisoners on parole on the ground of serious illness or death of their near relations (Father, Mother, Daughter, Son, Husband or Wife), the District Magistrate will deal with the application expeditiously and cause immediate enquiries to be made and communicate his recommendation to the ⁵[State Committee/District Committee] within four days of the date of receipt of the application for parole.

¹ Rule 17 Renumbered as cl. (a) and cl. (b) added by Notif. of 1977.

² Subs. by Notif. of 1978.

³ Subs. by Notif. of 1978.

⁴ Rule 17 Renumbered as cl. (a) and cl. (b) added by Notif. of 1977.

⁵ Subs. by Notif. of 1978.

[22. Where the State Government considers it expedient in the interest of effective and quick disposal of application for release of prisoners on parole or it appears to the State Government that the District Committee is not able to function properly, it may assign the functions of the District Committee to the State Committee.]

FORM I

(Rule 3)

Petition

(To be filled in by the Prisoner)

1. Name
2. Father's name and caste
3. Village, Tehsil, Sub-Division and District
4. Names of the guardian
5. Names of persons who are prepared to stand as sureties

Declaration by the Prisoner

I hereby declare that I desire to be released on parole under Section 40 (1) of the Code of Criminal Procedure, 1898 (Act V of 1898), and shall faithfully comply with the conditions of the parole, if released. I further agree to render myself liable to punishment for breaches of the conditions of parole under the Rajasthan Release on Parole Rules, 1958.

Dated

Signature of the Prisoner

Convict Register No.....

(To be filled in by the Superintendent of Jail)

1. Name and register No. of prisoner
2. Name of prisoner's father
3. Prisoner's residence, Mohalla and Village,
Police Station, District
4. Prisoner's age
5. Sentencing authority with case No.
6. Law under which sentenced
7. Sentence
8. Date of sentence
9. (a) If casual, whether "STAR"
(b) If habitual, whether professional
10. (a) Period spent in Jail up to
the date of application.
(b) Period spent in Jail up to the
date of re-admission after the last

release on parole, if any.

- 11. Conduct during the last release on parole
- 12. (a) Date of eligibility for release
(b) Period of parole for which eligible
- 13. Physical and mental condition
- 14. Conduct in Jail
- 15. Is it advisable to release the prisoner on parole if so, on what conditions?
- 16. Any other remarks by the Superintendent.

Superintendent.
Jail.....

Date.....

(To be filled in by the Distt. Magistrate)

- 1. Date of receipt in the Distt. Magistrate's office.
- 2. Brief history of the case (nature of the crime, if determined by the court, should also be mentioned).
- 3. Is it advisable to release the prisoner on parole
- 4. Amount of personal bond and sureties to be furnished.
- 5. Having regard to the prisoners antecedents and his conduct in Jail is he likely to abstain from crime and lead a peaceable life, if released on parole.

*The application is rejected.

Recommendation

*It is recommended that the prisoner named above may be released on parole for.....days on furnishing a personal bond of Rs..... and two sureties of Rs.....each.

Dated..... District Magistrate.....

Orders of the Government

*The recommendation of the District Magistrate is accepted/rejected.

Dated.....

Home Secretary to the
Government of Rajasthan.

*To be struck off as the case may be.

FORM II

**Jail Register of Application for
release on Parole under Rule 4**

S. No.	Date of application	Name & No. of Prisoner	Whether application rejected by Supdt.
1	2	3	4

Whether returned by Supdt. to prisoner	Date of eligibility	Actual date of release	Date of expiry of parole
5	6	7	8

Date of re-admission to Jail	Date of revocation	Remarks, if any.
9	10	11

78

FORM III

Register of Application for release under Rule 4 maintained in the office of the District Magistrate

S. No.	Date of receipt of application from Supdt.	Name & No. of Prisoner	Whether recommended
1	2	3	4
Amount of Sureties	Orders of Government	Date of revocation, if any	Remarks, if any.
5	6	7	8

FORM IV

(Rule 6)

[Order of Release under Section 401 (i) Cr. P.C. 1898]

In exercise of the powers conferred by Section 401 (i) of the Code of Criminal Procedure, 1898 (Act V of 1898) the Governor of Rajasthan is pleased, subject to the convict hereinafter described furnishing a personal bond and two sureties of Rs. each for the observance of the conditions hereinafter set forth, to order the release on parole for a period of..... days of..... s/o age..... resident of village..... police station..... districtat present confined in the Central/District Jail.....Jail Register No.....

The period of this parole shall expire on the..... day of the release of the convict who shall on such expiry return to the prison.

Conditions to be observed by the convict

(1) The convict shall remain under the supervision and authority of the probation officer during the period of parole. He shall obey all the instructions of the said officer issued to him either verbally or in writing regarding his residence, movement, conduct, etc.

(2) He shall not proceed beyond the limits of the places within which his movements may be restricted by the Probation Officer

without his permission and shall proceed to any place directed by the Probation Officer and by the route prescribed by him.

(3) He shall report himself at such times and places and to such persons as the probation officer may from time to time direct.

(4) He shall not commit within the Indian Union any criminal offence punishable by any law for the time being in force in the Union or any part thereof.

(5) He shall not in any way associate with persons to be of bad character or lead desolute or evil life.

(6) If in the opinion of the State Government, he is found to have committed a breach of the above mentioned conditions, the State Government may, after the persons concerned has been given an opportunity to represent his case before the District Magistrate, revoke the parole and direct his Re-commitment to the person to serve the rest of the sentence.

FORM V

[Rule 16 (III)]

**Order of Revocation of Parole under
section 401 (3) Cr. PC., 1898.**

in exercise of the powers conferred by sub-section (3) of Section 401 of the Code of Criminal Procedure, 1898 (Act V of 1898) the Governor of Rajasthan hereby revokes, with effect from.....

The parole under sub-section (1) of the said Section of the said Act, granted on.....to.....to..... S/O..... resident of..... convict No..... of Central/ District Jail.....and directs that he be re-admitted into the prison to serve out his sentence.

✓

29 20
66

स. के. म. नं. — 394-2,00,000-91.

प्रथम कार. जी. संख्या 4

राजस्थान सरकार
गृह विभाग

क्रमांक प. 7822 गृह-12/कारा/93 जयपुर, दिनांक
निदेशक कारागार,
राजस्थान, जयपुर।

112 APR 1993

विषय: - बंदियों को पेट्रोल पर रिहा करने हेतु पात्रता
बाबत।

महोदय,

उपरोक्त विषयान्तर्गत निदेशानुसार आपके पत्र क्रमांक 1764/
दिनांक 11.1.92 के संदर्भ में लेख है, कि राजस्थान कैदी कारावास
कालोन अवकाश नियम 1958 के नियम 9 के प्रावधान स्पष्ट है। इन
प्रावधानों के अन्तर्गत बंदी को पेट्रोल पर रिहा करने की पात्रता की
गणना करते समय कारावास जो पूर्ण कर लिया है, उसमें विचाराधीन
अवधि तथा नियमानुसार दिया गया परिवार तीनों को सम्मिलित

दिया जाना चाहिए।

J.C., D.I.O., Sr. A.O., S.O., H.L.A.
S.J.L., D.S.P. (Tr.), D.S.P. (Store)
Acctt. Payment, Sr. Teacher, O.S.
(I), O.S. (II), O.A. (Entl.)
DIR, J.P.
D. 11/1/93

भवदीय,

शासन उप सचिव

13 APR 1993

श्रीमाल 7.4.

21/11
15.4
588
15/4/93
568
19/4/93

23

20/5

राजस्थान-सरकार
गृह-12 विभाग

एफ: 4 2 गृह-12/कारा/87

जयपुर, दिनांक:-26-5-1994

अधिसूचना

मिस्ता
2

दण्ड प्रक्रिया संहिता, 1973 1974 का अधिनियम सं. 2 की धारा 432 को उप-धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राज्य सरकार राजस्थान कैदियों को पैरोल पर रिहाई नियम, 1958 को और संशोधित करने के लिए इसके द्वारा निम्नलिखित नियम बनाती है, अर्थात:-

संशोधन

I.G., D.I.G. St. A.O., S.O., H.L.A., S.I.L., D.S.P. (T.E.), D.S.P. (Steno), Acctt. Payment, Sr. Teacher, O.S., (I), O.S. (II), O.A. (Estt.)
I. & P.
Dated

31 MAY 1994

1 इन नियमों का नाम राजस्थान कैदियों को पैरोल पर रिहाई संशोधन नियम, 1994 है।

2 ये तुरन्त प्रवृत्त होंगे।

उक्त नियमों के विद्यमान नियम 9 के नीचे निम्नलिखित परन्तुक जोड़ा जायेगा:-

“ऐसे कैदों, जिसे किसी ऐसे अपराध के लिए, जिसके लिए विधि द्वारा उपबंधित दण्डों में से एक दण्ड मृत्यु दण्ड है, आजीवन कारावास से दण्डादिष्ट किया गया है या जिसे मृत्यु दण्डादेश दिया गया है किन्तु यह दण्डादेश दण्ड प्रक्रिया संहिता को धारा 433 के अधीन आजीवन कारावास में लक्ष्कृत कर दिया गया हो, के मामले पैरोल पर स्थायी रिहाई के लिए राज्य समिति के समक्ष नहीं रखे जायेंगे जब तक कि उसने परिवार का छोड़कर किन्तु जांच अन्वेषण या विवरण के दौरान व्यतीत की गयी निरोधकालावधि को सम्मिलित करके 14 वर्ष का कारावास नहीं भुगत लिया हो। ऐसे कैदियों को उपर वर्णित शर्तों के अध्याधोन रहते हुए शेष कालावधि के लिए प्रतिवर्ष 40 दिनों के पैरोल पर रिहा किया जा सकेगा।”

Rules for Release on Parole.

992
9-6-94
राजस्थान, जयपुर

370
3/4

राज्यपाल के आदेश से,
डा. सु. 72002
उप शासन सचिव

प्रतिलिपि:
1- अति महानिदेशक कारागार राजजयपुर।

क्रमांक:-प. 21(58)गृह/वर्ग-8/76/पार्ट

जयपुर, दिनांक: 24 सितम्बर, 96

C/3286312

इस विभाग की अधिलेखना क्रमांक प. 4121गृह-12/कारा/87 दिनांक 26.5.94 से "राजस्थान कैदियों की पैरोल पर रिहाई नियम, 1958" के नियम 9 में संशोधन कर एक परन्तुक जोड़ा गया। उक्त परन्तुक के संबंध में निदेशक एवं महानिरीक्षक, कारागार, जयपुर द्वारा यह स्पष्टीकरण चाहा गया है कि तृतीय पैरोल के पश्चात प्रति वर्ष 40 दिवस का पैरोल 14 वर्ष की सजा पूर्ण करने के पश्चात् स्थाई रिहाई के प्रार्थना पत्र को राज्य समिति द्वारा निरस्त करने के पश्चात् देय होगा अथवा तृतीय पैरोल के पश्चात कभी भी देय हो सकता है।

1782
30/9/96

इस सम्बन्ध में स्थिति स्पष्ट की जाती है कि स्थाई पैरोल पर रिहाई के लिए 14 वर्ष का कारावास पूर्ण होने के पश्चात् ही विचार किया जायेगा लेकिन प्रथम तीन पैरोल के बाद और 14 वर्ष का कारावास भुगतने तक प्रति वर्ष 40 दिवस का पैरोल नियमानुसार स्वीकृत किया जा सकेगा।

Rule of
Parole Release

DS(7)

3228/9

24/14

30/9

आज्ञा से,

ग्यारसी लाल वर्मा
शासन उप सचिव

तिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है :-

- 1- निदेशक एवं महानिरीक्षक, कारागार, राजस्थान, जयपुर।
- 2- समस्त जिला मजिस्ट्रेट।
- 3- समस्त अधीक्षक / उपाधीक्षक, केन्द्रीय / जिला कारागृह

643
11/10

शासन उप सचिव 24/9/96

वीर डिपा/23996

राजस्थान-सरकार
गृह-गुप-121 विभाग

क्रमांक:-प. 181141गृह-12/कारा/82 जयपुर, दिनांक: 10.12.83

निदेशक एवं महानिरीक्षक,
कारागार राजस्थान,
जयपुर ।

D.I.O., Sr. A.O. & O.H.A.
P.D.S. (P.)
D.R. & I.G.
10.12.83
महोदय

विषय:- बंदियों के आपात पेरोल के संबंध में ।
सन्दर्भ:- आपका पत्रांक: सामान्य/1886/भाग-11/
33771 दिनांक 10.12.83 .

उपरोक्त विषयान्तर्गत निदेशानुसार लेख है कि बंदियों को आपात पेरोल दिये जाने के संबंध में विधि विभाग की राय के अनुसार इस विभाग की अधिसूचना दिनांक 17.12.83 में प्रयुक्त शब्द "Parents" का आशय माता व पिता दोनों से लिया जाना सौददेश्य है । माता व पिता दोनों में से एक के जीवित नहीं होने की दशा में सामान्य पेरोल अन्य सुसंगत नियमों के आधार पर स्वीकृत किये जाने के प्रावधान हैं ।

152
20-1-91

98
2/11

भवदीय
उप शासन सचिव

बोरड़िया/10197