

**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

**CWP No.8514 of 2026
Reserved on 15.09.2026
Decided on 16.09.2026
Uploaded on : 16.09.2026**

Sulakhan Singh

...Petitioner

Versus

State of H.P. & Ors.

.....Respondent

Coram:

The Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.

Whether approved for reporting?¹

For the Petitioner : Mr. Abhinav Mohan Goel, Legal
Aid Counsel.

For the Respondents : Mr. Rajpal Thakur, Additional
Advocate General,

Chirag Bhanu Singh, Judge

By way of the present writ petition, petitioner-Sulakhan Singh has invoked the extra ordinary writ jurisdiction of this Court, under Article 226 of the Constitution of India, seeking the following reliefs:-

(i) That this Hon'ble Court may kindly be pleased to issue writ in the nature of certiorari, thereby quash and set-aside the Annexure P-3, dated 03.02.2026, in the interest of justice and fair play;

(ii) That this Hon'ble Court may kindly be pleased to issue writ in the nature of mandamus, thereby directing the respondents to release the petitioner on parole for the period of 28 days to meet with family member and to provide the required

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

financial support, in the facts and circumstances of the present case.

2. It is the contention of the petitioner that he came to be convicted for having committed offences punishable under Sections 21, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the 'Act'), vide FIR No.99 of 2023. Vide judgment dated 06.01.2025, the petitioner had been sentenced to undergo rigorous imprisonment for 10 years and to pay fine of Rs.1,00,000/- (one lakh only).

3. The petitioner had applied for grant of parole for a period of 28 days' to meet his family members, consisting of his wife and two children. It is further averred that they do not have any source of income and were unable to cultivate even the land. The copy of application has been annexed along with the petition, as Annexure P-2.

4. The respondents/State based on the report of the District Magistrate, Jammu has rejected the application. The report of the District Magistrate, Jammu was further based on the recommendation of the Senior Superintendent of Police, Jammu. The recommendation of the Senior

Superintendent of Police, Jammu were totally baseless and had been made purely on the basis of the assumption and presumption. The Senior Superintendent of Police, Jammu had also raised an objection that the petitioner was already required in case FIR No.116 of 2021, which had been registered against the petitioner, under Sections 447, 506 and 34 of IPC, in Police Station R.S. Pura. However, the petitioner had already been enlarged on bail in the said FIR. His application for parole however, came to be rejected on 03.02.2026, (Annexure P-3).

5. While impugning the action of the respondents/State, it is further the contention of the petitioner that not only is the act of the State in violation of the legal rights of the petitioner enshrined under the Himachal Pradesh Good Conduct Prisoners (Temporary Release) Act, 1968, but the same has been done without any application of mind, oblivious of the fact that the local inhabitants of the locality, where his family resides had no objection, in case, the petitioner is released on parole. The conduct of the petitioner during his incarceration in the jail was also found

to have been above the board. There was nothing on record to remotely suggest that his release would endanger the security of the State or hinder the maintenance of public order. The petitioner belongs to a very poor family and his family was totally dependent upon him and therefore, his right to life and personal liberty was being violated, which was against the constitutional of mandate. A prayer has, thus, been made to allow his request for parole.

6. The respondents/State while, contesting the petition has, inter-alia, made preliminary submissions that the grant of parole is a privilege and not a matter of right of a convict. Section 3 of the Act specifically provides that the convict is entitled to be released on parole subject to the satisfaction of the Competent Authority.

7. On merits, it was not disputed that the petitioner had applied for 28 days' parole on 07.11.2025 to meet his family.

8. According to the respondents/State, the request of the petitioner had been forwarded to the District Magistrate, Jammu for the recommendation/verification report, as per requirements of the Act. However, the case of

the petitioner had not been recommended by the District Magistrate, Jammu, vide his letter dated 21.01.2026. Apparently, the Senior Superintendent of Police, Jammu had objected to the release of the petitioner on parole, as it was likely to adversely affect the locality. The Senior Superintendent of Police, Jammu had also expressed the apprehension that his release may entail the involvement of the petitioner in criminal/drug related activities. The Senior Superintendent of Police, Jammu had also reported that the custody of the petitioner was also required in case FIR No.116/2021, registered under Sections 447, 506 and 34 of IPC, at Police Station R.S Pura.

9. Keeping in view the recommendation made by the District Authorities, Jammu the parole case of the petitioner was rejected.

10. The petitioner was further stated to have been lodged in Lala Lajpat Rai, District and Open Air Correctional Home, Dharamshala, District Kangra, H.P., and was undergoing rigorous imprisonment for 10 years. The petitioner was stated to have already undergone a sentence of 3 years and 17 days, as on 21.05.2026. The

conduct of the petitioner inside the jail, however, was reported to have been found satisfactory. The other allegations in the petition have also been controverted by the respondents/State. The respondents/State thus, prayed for the dismissal of the writ petition.

11. I have heard learned counsel appearing for the parties and perused the case file minutely.

12. As per the custody certificate on record, the petitioner has undergone 3 years and 17 days of sentence till 21.05.2026.

13. The application for parole submitted by the petitioner on 07.11.2025 had been forwarded to the District Magistrate, Jammu, who on the basis of the report of the Senior Superintendent of Police, Jammu had strongly recommended that the petitioner may not be released on parole. The recommendation of the District Magistrate, Jammu, which has been annexed by the respondents/State, as Annexure R-2/3 shows that the S.P. City South, Jammu had opined that the local populace of Model Town, Gangyal near Digiana Asnram, Jammu, where the family of the convict prisoner is residing, for the last

two-three years, has not raised any objection, if the convict is released on parole. However, it seems that the S.P. Headquarters, Jammu had opined that the release of the petitioner on parole may adversely affect the locality, as there was apprehension that the petitioner could be involved in criminal/drugs related activities. Besides this the custody of the convict/prisoner was also required in case FIR No.116/2021, registered under Sections 447, 506 and 34 of IPC, at Police Station R.S. Pura.

14. It has however been specifically averred by the petitioner that he had already been enlarged on bail in case FIR No.116/2021. The respondents/State had not denied the said factum. The petitioner having been enlarged on bail, the opinion of the S.P. Headquarters, Jammu thus, cannot be countenanced. Moreover, the said case was not registered in respect of any offence having been committed under the provisions of the Act. The apprehension of the S.P. Headquarters, Jammu that the petitioner may be involved in drug related activities, on his release is also thus, misconceived. There is nothing on record to remotely suggest that any other FIR, under the Act stands registered

against the petitioner, either in Jammu and Kashmir or in Himachal Pradesh.

15. As per the reply, the conduct of the petitioner was found to be satisfactory even inside the jail. A period of more than three years has already elapsed and the petitioner has not been granted any parole or furlough since then. As per the report of the S.P. City Jammu, the local population of the area, where the family of the convict resides has no objection, if he is released on parole.

16. The provisions of Section 3(a) provides for a temporary release of the prisoner for reasons recorded therein. In fact, after a convict has undergone imprisonment for a period of 3 years, he is also entitled to a temporary release on furlough, as per the provisions of Section 4 of the Act. If not under Section 3, the petitioner was, at least, entitled to a furlough under Section 4 of the H.P. Good Conduct Prisoners (Temporary Release) Act, 1968, as there was nothing on record to remotely suggest that the petitioner was a habitual offender or had committed any acts of robbery, dacoity or such other offences, as the government by notification has specified, under Section 4 of the Act (ibid).

17. The primary purpose of releasing the convict on parole has elaborately been discussed by the Hon'ble Supreme Court, in **Asfaq versus State of Rajasthan and others**, reported in **(2017) 15 SCC 55**. The relevant paras- of the judgment, are reproduced, as under:

"17. From the aforesaid discussion, it follows that amongst the various grounds on which parole can be granted, the most important ground, which stands out, is that a prisoner should be allowed to maintain family and social ties. For this purpose, he has to come out for some time so that he is able to maintain his family and social contact. This reason finds justification in one of the objectives behind sentence and punishment, namely, reformation of the convict. The theory of criminology, which is largely accepted, underlines that the main objectives which a State intends to achieve by punishing the culprit are: deterrence, prevention, retribution and reformation. When we recognise reformation as one of the objectives, it provides justification for letting of even the life convicts for short periods, on parole, in order to afford opportunities to such convicts not only to solve their personal and family problems but also to maintain their links with the society. Another objective which this theory underlines is that even such convicts have right to breathe fresh air, albeit for periods. These gestures on the part of the State, along with other measures, go a long way for redemption and rehabilitation of such prisoners. They are ultimately aimed for the good of the society and, therefore, are in public interest.

18. The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. Main purpose of such provisions is to afford to them an opportunity to solve their personal and family problems and to enable them to maintain their links with society. Even citizens of this country have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, without employment prospects, without a fundamental knowledge of the communities to which they will

return, and without resources, stand a significantly higher chance of failure. When offenders revert to criminal activity upon release, they frequently do so because they lack hope of merging into society as accepted citizens. Furloughs or parole can help prepare offenders for success.

19. Having noted the aforesaid public purpose in granting parole or furlough, ingrained in the reformation theory of sentencing, other competing public interest has also to be kept in mind while deciding as to whether in a particular case parole or furlough is to be granted or not. This public interest also demands that those who are habitual offenders and may have the tendency to commit the crime again after their release on parole or have the tendency to become threat to the law and order of the society, should not be released on parole. This aspect takes care of other objectives of sentencing, namely, deterrence and prevention. This side of the coin is the experience that great number of crimes are committed by the offenders who have been put back in the street after conviction. Therefore, while deciding as to whether a particular prisoner deserves to be released on parole or not, the aforesaid aspects have also to be kept in mind. To put it tersely, the authorities are supposed to address the question as to whether the convict is such a person who has the tendency to commit such a crime or he is showing tendency to reform himself to become a good citizen.

20. Thus, not all people in prison are appropriate for grant of furlough or parole. Obviously, society must isolate those who show patterns of preying upon victims. Yet administrators ought to encourage those offenders who demonstrate a commitment to reconcile with society and whose behaviour shows that aspire to live as law-abiding citizens. Thus, parole program should be used as a tool to shape such adjustments.

21. To sum up, in introducing penal reforms, the State that runs the administration on behalf of the society and for the benefit of the society at large cannot be unmindful of safeguarding the legitimate rights of the citizens in regard to their security in the matters of life and liberty. It is for this reason that in introducing such reforms, the authorities cannot be oblivious of the obligation to the society to render it immune from those who are prone to criminal

tendencies and have proved their susceptibility to indulge in criminal activities by being found guilty (by a Court) of having perpetrated a criminal act. One of the discernible purposes of imposing the penalty of imprisonment is to render the society immune from the criminal for a specified period. It is, therefore, understandable that while meting out humane treatment to the convicts, care has to be taken to ensure that kindness to the convicts does not result in cruelty to the society. Naturally enough, the authorities would be anxious to ensure that the convict who is released on furlough does not seize the opportunity to commit another crime when he is at large for the time-being under the furlough leave granted to him by way of a measure of penal reform.

22. Another vital aspect that needs to be discussed is as to whether there can be any presumption that a person who is convicted of serious or heinous crime is to be, ipso facto, treated as a hardened criminal. Hardened criminal would be a person for whom it has become a habit or way of life and such a person would necessarily tend to commit crimes again and again. Obviously, if a person has committed a serious offence for which he is convicted, but at the same time it is also found that it is the only crime he has committed, he cannot be categorized as a hardened criminal. In his case consideration should be as to whether he is showing the signs to reform himself and become a good citizen or there are circumstances which would indicate that he has a tendency to commit the crime again or that he would be a threat to the society. Mere nature of the offence committed by him should not be a factor to deny the parole outrightly. Wherever a person convicted has suffered incarceration for a long time, he can be granted temporary parole, irrespective of the nature of offence for which he was sentenced. We may hasten to put a rider here, viz. in those cases where a person has been convicted for committing a serious offence, the competent authority, while examining such cases, can be well advised to have stricter standards in mind while judging their cases on the parameters of good conduct, habitual offender or while judging whether he could be considered highly dangerous or prejudicial to the public peace and tranquility etc.

23. There can be no cavil in saying that a society that believes in the worth of the individuals can have

the quality of its belief judged, at least in part, by the quality of its prisons and services and recourse made available to the prisoners. Being in a civilized society organized with law and a system as such, it is essential to ensure for every citizen a reasonably dignified life. If a person commits any crime, it does not mean that by committing a crime, he ceases to be a human being and that he can be deprived of those aspects of life which constitute human dignity. For a prisoner all fundamental rights are an enforceable reality, though restricted by the fact of imprisonment. (See – Sunil Batra (II) v. State (UT of Delhi) (1980) 3 SCC 488 , Maneka Gandhi v. Union of India (1978) 1 SCC 248 and Charles Sobraj v. Superintendent Central Jail, Tihar, New Delhi, (1978) 4 SCC 104.

24. It is also to be kept in mind that by the time an application for parole is moved by a prisoner, he would have spent some time in the jail. During this period, various reformatory methods must have been applied. We can take judicial note of this fact, having regard to such reformation facilities available in modern jails. One would know by this time as to whether there is a habit of relapsing into crime in spite of having administered correctional treatment. This habit known as “recidivism” reflects the fact that the correctional therapy has not brought in the mind of the criminal. It also shows that criminal is hardcore who is beyond correctional therapy. If the correctional therapy has not made in itself, in a particular case, such a case can be rejected on the aforesaid ground i.e. on its merits.”

(self emphasis supplied)

18. Having considered, the facts and circumstances of the present case in light of **Asfaq’s** case discussed herein-above (supra), it is crystal clear that the observations of the S.P. Headquarters Jammu are totally misplaced and misconceived. Admittedly, the local populace where the family of the convict resides has no

objection and his conduct during incarceration has also been found to be satisfactory through out. No other case under the NDPS Act, is found to have been registered against the petitioner. The petitioner even otherwise, was at least, entitled to a furlough under Section 4 of H.P. Good Conduct Prisoners (Temporary Release) Act, 1968, affording him sufficient opportunity to maintain family and social-ties. There is nothing on record to remotely suggest that the petitioner has any tendency to commit the same crime again, at least, there is nothing on record placed by the respondents/State in this behalf.

19. It is by now trite that prisoners too retain their fundamental rights of life and humanity, dignity, under Article 21 of the Constitution of India, which would entail that incarceration only limits their personal liberties, but it certainly will not erase their basic human rights. Thus, meeting his family and having a whiff of fresh air, albeit for small periods, that is on temporary release or furlough would be an integral part for right to life enshrined under Article 21 of the Constitution of India. The fundamental right of the petitioner from seeing or visiting his family for

making provisions for their well being and maintenance cannot be taken away, except in accordance with law.

20 There being no plausible reasons visible in the recommendation of the Superintendent of Police, Jammu as has been discussed, in detail herein-above.

21. For all the reasons detailed herein-above, the order passed by the District Magistrate, Jammu strongly objecting to the release of the petitioner thus, cannot be sustained in the eyes of law. As a sequel, the same is liable to be quashed and set-aside. It is ordered accordingly. Consequently the petitioner is ordered to be enlarged on parole/furlough for a period of three weeks.

22. As a sequel, the petition is allowed in the following terms:-

(i) Order, dated 3rd February, 2026, rejecting the request of the petitioner for parole, is quashed and set-aside;

(ii) Respondents are directed to extend the concession of parole/furlough to the petitioner, for a period of three weeks, on his furnishing a personal bond in the sum of Rs.50,000/-, with two sureties in the like amount, to the satisfaction of Superintendent of Jail, Lala Lajpat Rai District & Open Air Correctional Home, Dharamshala, District Kangra, H.P.;

(iii) It is made clear that the petitioner shall surrender before Superintendent of Jail, Lala Lajpat Rai District & Open Air Correctional

Home, Dharamshala, District Kangra, H.P., on expiry of parole period. In case, the petitioner breaches any of the conditions of parole order or creates any law and order problem, then, the respondents are free to cancel the parole and take action against him, in accordance with law; (iv) Violation of any of the above conditions shall be treated as a negative factor for consideration of similar prayer, in the future.

23. Pending miscellaneous applications, if any, shall also stand disposed of, accordingly.

24. Registry to communicate this order to the Superintendent of Jail, Lala Lajpat Rai District & Open Air Correctional Home, Dharamshala, District Kangra, H.P., for compliance.

(Chirag Bhanu Singh)
Judge

16th September, 2026
(Subhash Sharma)

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RANI

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by RITU RANI
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