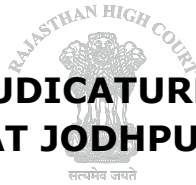




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**



D.B. Civil Writ Petition No. 18460/2026

CNR: RJHC010770252026 | URN: CW / 31881U / 2026

Ashish Alias Chotu Lal S/o Shri Raju Lal, Aged About 27 Years, At Present Lodged In Central Jail Jodhpur Through His Mother Smt Kanta Devi W/o Shri Raju Lal Age About 55 Years R/o Railway Colony P S Sojat District Pali

-----Petitioner

Versus

1. State Of Rajasthan, Through Secretary Of Home Dept Jaipur
2. The Director General, Jail Jaipur
3. The District Collector, Pali
4. The Superintendent, Central Jail Jodhpur

-----Respondents

For Petitioner(s) : Mr. Kalu Ram Bhati
For Respondent(s) : Mr. K.S. Kumpawat for
Mr. Deepak Choudhary, AAG

**HON'BLE MR. JUSTICE VINIT KUMAR MATHUR
HON'BLE MR. JUSTICE SANDEEP SHAH**

Order

23/09/2026

1. Heard learned counsel for the parties.
2. The present writ petition has been filed for grant of permanent parole with a prayer that the order dated 16.07.2026 passed by the State Government may be set aside.
3. Briefly noted facts in the present writ petition are that the petitioner is undergoing sentence of life imprisonment in pursuance of the order of conviction dated 22.02.2019 passed by the Learned Special Judge, POCSO Act Cases No.3, Pali in



Sessions Case No.230/2018 and he is lodged in central Jail Jodhpur.

4. Learned counsel for the petitioner submits that after having granted three regular paroles, the petitioner applied for grant of permanent parole and since he was meeting all the requisite conditions enumerated for grant of permanent parole as per the Rajasthan Prisoners Release on Parole Rules, 1958 (hereinafter referred to as 'The Rules of 1958'), therefore, the case of the petitioner is required to be considered by the competent authority of the State Government.

5. Learned counsel submits that the application of the petitioner was dismissed by the respondent – State vide order dated 16.07.2026 holding that as per the Rajasthan Prisoners Release on Parole Rules, 2021(hereinafter referred to as 'the Rules of 2021'), the petitioner is not eligible for grant of permanent parole. He submits that the respondent State have committed an error while rejecting the application of the petitioner for grant of permanent parole taking recourse to the Rules of 2021. He submits that since the conviction of the petitioner is prior to the enforcement of the Rules of 2021 i.e. in the year 2019, therefore, the parole Rules of 1958 are required to be taken into consideration while considering the prayer of the petitioner seeking permanent parole.

6. Learned counsel for the petitioner further submits that as per the Rule 14 of the Rules of 1958, the petitioner is entitled for release on permanent parole. Learned counsel has relied upon a judgment of this Court in D.B. CRLW No.180/2022 'Laxman Singh Vs. State of Rajasthan decided on 27.03.2023.



7. *Per contra*, learned counsel for the State while opposing the submissions made by the learned counsel for the petitioner submits that since the case of the petitioner is being considered in the year 2026, therefore, the rules prevalent at the time of consideration are required to be taken into consideration. He submits that the State Authorities have rightly considered and rejected the application of the petitioner.

8. We have considered the submissions made before this Court and have gone through the relevant record of the case.

9. It is the admitted fact that date of the order of conviction of the petitioner in the present case is "22.02.2019" and, therefore, the order of conviction has been passed against the petitioner before the Rules of 2021 came into force.

10. In the considered opinion of this Court, the rules, which are prevalent at the time of passing of the order of conviction in a particular case is required to be taken into consideration. Admittedly, in the present case, at the time of passing of the order of conviction since the Rules of 1958 were in operation, therefore, the provisions of Rules of 1958 are required to be taken into consideration while considering the case of the petitioner for grant of permanent parole.

11. This Court in the case of **Laxman Singh Vs. State of Rajasthan** in **D.B. CRLW No.180/2022** dealing with the similar controversy has held as under:-

"The facts are not in dispute, wherein, the petitioner was convicted on 17.07.2011 and in the past he has been granted benefit of parole on several occasions.

The present application has been rejected by the District Parole Committee only on account of provisions of Rule 16 (2)



(b) of the Rules 2021, wherein, it is inter-alia provided that the prisoners convicted under Section 364 IPC shall not be eligible for release on parole.

The plea raised is that the Rules 2021, in view of the fact that petitioner was convicted on 17.07.2011 and the Rules came into force on 30.06.2021, would have no application.

Hon'ble Supreme Court in the case of Hitesh (supra) inter- alia observed as under:-

"4 Following the law laid down by this Court, in determining the entitlement of a convict for premature release, the policy of the State Government on the date of the conviction would have to be the determinative factor. However, if the policy which was prevalent on the date of the conviction is subsequently liberalised to provide more beneficial terms, those should also be borne in mind."

(emphasis supplied)

After making the above observations, the Court inter-alia came to the following conclusion:-

"15 Be that as it may, we are of the considered view that the circumstances which have been set out in the earlier part of this order order should merit fresh consideration by the State Government. Since the grant of premature release is essentially an executive function relatable to Article 161 of the Constitution, we are of the view that it would be appropriate to direct that the matter should be re- evaluated bearing in mind all the relevant circumstances some of which have been noted above. There is merit in the submission which has been urged on behalf of the petitioner that if the fact that the petitioner was involved in a murder, following a money dispute, is held to be a ground for rejection of his 5 application for premature release, he would be effectively debarred from seeking premature release at any point of time in the future though the coaccused involved in the same crime have since been released. It merits emphasis that this is not a ground for rejection in the policy of 9 July 1992.

16 In the circumstances, we direct the competent authority of the State Government to reconsider the application of the petitioner





for the grant of premature release after duly applying its mind to the relevant facts and circumstances, including those which have been noted above. The application shall be considered in accordance with the policy document dated 9 July 1992 which held the field on the date of the conviction. This exercise shall be completed within a period of two months."

(emphasis supplied)

It can be seen that the Hon'ble Supreme Court came to the conclusion that 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 of premature release by the Authorities.

A Division Bench of this Court at Jaipur Bench in the case of Anil Kumar (supra) following the judgment in the case of Hitesh (supra) inter- lia came to the following conclusion:-

"10. In view of judgment of Hitesh @ Bavko Shivshankar Dave vs State of Gujarat(supra) and as per the Rules prevalent at the time of his conviction, petitioner is entitled to be released on permanent parole. Also, taking note of the fact that co-accused have been given benefit of permanentparole, the writ petition(parole) deserves to be allowed."

In view of the above, the rejection of petitioner's application by the District Parole Committee relying on the provisions of Rules 2021 cannot be sustained.

Insofar as, the Rules 1958 are concerned, the right to get parole under Provisions of Rule 14 of the said Rule 1958, in case, where a person has been convicted for the offence inter-alia under Section 364 IPC is not absolute.

In view of the above, the petition filed by the petitioner is partly allowed. The order dated 02.11.2021 (Annex.1) passed by the District Parole Committee qua the petitioner is set aside.

The matter is remanded back to the Committee to consider the case of the petitioner keeping in view the provisions of Rules 1958 and the fact that petitioner was accorded parole on several occasions earlier.

Needful may be done by the Committee within a period of three weeks from the date of this order."





12. In view of the above, this Court is of the considered opinion that the respondent – State has committed an error while rejecting the application of the petitioner for grant of permanent parole and, therefore, the same is not sustainable in the eyes of law.

13. Hence, the present writ petition is disposed of and the order dated 16.07.2026 rejecting the application seeking permanent parole qua the present petitioner is quashed and set aside and the matter is remanded back to the committee to consider the case of the petitioner keeping in view the provisions of the Rules of 1958 and the fact that the petitioner was granted parole on several earlier occasions.

14. The Committee shall reconsider the case of the petitioner within a period of four weeks from the date of receipt of the certified copy of this Order strictly in accordance with law.

(SANDEEP SHAH),J

(VINIT KUMAR MATHUR),J

68/Nitin Prajapat