

News

'An eye for an eye' is not practiced in India: Kerala High Court grants release to death row inmate



The Court ruled that even in cases where statutes prohibit parole for death row inmates, High Courts may use their authority under Article 226 of the Constitution to protect fundamental human rights.

A death row inmate was recently granted escort parole by the Kerala High Court to visit his ill 93-year-old mother.

According to the High Court's ruling, the convicted individual is one of 14 individuals who were given the death punishment by a Sessions Court last year for the killing of lawyer and Bharatiya Janata Party (BJP) leader Ranjith Sreenivasan.

According to reports, all 14 were affiliated with the Social Democratic Party of India (SDPI)

and the outlawed Popular Front of India (PFI). The High Court is still considering their appeals against their conviction and imprisonment.

Despite the fact that parole is forbidden for inmates who have received death sentences under the Kerala Prisons and Correction Services (Management) Act and the Kerala Prisons and Correction Services (Management) Rules, **Justice PV Kunhikrishnan** issued the decision granting parole.

The Court ruled that even in cases where parole for condemned inmates is prohibited by statute, High Courts may use their authority under Article 226 of the Indian Constitution to protect fundamental human rights.

The Court emphasized that India does not practice "an eye for an eye" or other forms of retributive retribution.

However, a court of law cannot adopt an inhumane stance similar to that of the prisoner who abandoned the victim's family. Retributive punishment, such as "an eye for an eye, a tooth for a tooth," is not practiced in India. Our nation is renowned for upholding justice while demonstrating empathy, humanity, and compassion. The constitutional court has an obligation to ensure that a prisoner's basic rights and requirements are upheld until the end of the sentence, the court declared.

Additionally, it noted that as the Indian legal system is not based on retributive punishment, courts must exercise their discretion when it comes to showing compassion.

"Justice is not justice without the gentle touch of humanity, empathy, and compassion. However, the Court stated that humanity, empathy, and compassion are questions of judicial discretion that must be applied in light of each case's unique facts and circumstances.

The constitutional court has an obligation to ensure that a prisoner's basic rights and needs are upheld until the end of the term.

High Court of Kerala

The convict's wife submitted the petition, contesting the prison administration's repeated denial of their requests for emergency parole.

In addition to offering to pay for the escort, the petitioner had provided medical data attesting

to the convict's mother's precarious health.

Prison officials, however, denied the petitions, citing Rule 339(2) of the Rules and Section 42 of the Kerala Prisons and Correctional Services (Management) Act, 2010 as reasons for not allowing escort visits or emergency parole for inmates awaiting execution.

The petitioner argued that the High Court might use its authority under Article 226 on humanitarian grounds and grant her husband parole to visit his mother, who is entirely bedridden, even if the legislation did not allow parole in such circumstances.

Although the convict's offense was serious and his acts had caused the victim's family much anguish, the court pointed out that the legal system couldn't take a strictly punitive stance.

"When the prisoner, who is a condemned prisoner waiting for death sentence submit before this Court that he want to see his mother, who is in a sinking stage, this Court cannot shut its eye, even though he was inhuman to the deceased and his relatives, when he committed the murder, which is found as true by the trial court," the Court stated in its ruling.

Retributive punishment, such as "an eye for an eye, a tooth for a tooth," is not practiced in India.

High Court of Kerala

After obtaining a certified copy of its ruling, the Court decided it was appropriate to use its extraordinary power under Article 226 of the Constitution and mandated that the convicted individual be placed on escort parole within three days.

The Court further mandated that the convicted individual be permitted to spend a minimum of six hours with his mother while being closely monitored by the police, with the District Police Chief of Thiruvananthapuram City overseeing the arrangements.

Advocates KS Madhusoodanan, MM Vinod Kumar, PK Rakesh Kumar, KS Mizver, MJ Kirankumar, and Shaiq Rasal M. represented the petitioner.