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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP No.1760 of 2024
Date of Decision: 28.08.2024
Reserved on: 11.07.2024

Neeraj Rana ... Petitioner
Versus
State of Punjab and another ... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Raj Kumar Gupta, Advocate,
for the petitioner.

Mr. Satjot Singh, AAG, Punjab.

MANISHA BATRA, J.

1. The petitioner is aggrieved by the order dated 30.07.2020 (Annexure P-1) passed by the District Magistrate, Amritsar whereby application of the petitioner for his temporary release on parole for a period of eight weeks has been rejected. Prayer has been made by the petitioner for quashing the aforesaid order and to give appropriate directions qua his release.

2. The petitioner is serving sentence of imprisonment for a period of ten years in Central Jail, Kapurthala after his conviction recorded in case arising out of FIR No.69 dated 26.11.2016 registered at Police Station Rawalpindi, District Kapurthala under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (For short

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“NDPS Act”) read with Section 25 of Arms Act, 1959. He was sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1 lakh for commission of offence under Section 21 (c) of NDPS Act and to undergo rigorous imprisonment for a period of two years and to pay fine of Rs.2000/- for commission of offence punishable under Section 25 of Arms Act. Both these offences were ordered to run concurrently. An appeal as filed by the petitioner against the said judgment is pending before this Court. His prayer for grant of temporary release for the purpose of looking after his wife and minor child, for a period of eight weeks has been declined by way of the impugned order on the ground that there is apprehension of breach of state security and maintenance of public order, if he is released on bail.

3. It is argued by learned counsel for the petitioner that he is not a hardcore prisoner. Some cases are pending against him but he is on bail in all such cases. He has already undergone sentence in cases registered under the provisions of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (For short “Act, 1962”). The reasoning given by the District Magistrate, Amritsar while declining his prayer for release on parole to the effect that there was apprehension of breach of state security is totally unfounded and, therefore, it is urged that he deserves to be released on parole.

4. Opposing the petition, the respondents No.1 and 2 have filed a joint reply whereas a separate reply has been filed by the Assistant Commissioner of Police, South, Amritsar. As per the respondents No.1 and

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2, since seven cases had been registered against the petitioner under the provision of Prison Act for committing prison offences and five of them are still pending whereas in one case, he has been convicted and since he had absconded from parole in the year 2016 and had committed offence under the provisions of NDPS Act during the said period, therefore, the observation made while passing the impugned order that there was apprehension of breach of security was correct and, therefore, it is submitted by learned State counsel that the petition does not deserve to be allowed.

5. The Assistant Commissioner of Police, South, Amritsar as well as respondents No.1 and 2 and in their replies have given details of the cases registered under the provisions of Act, 1962 and Prison Act as well as under the offences punishable under different provisions of IPC and NDPS Act which are as follows:-

- “i) FIR No.670 dated 24.10.2016, under Sections 379/379-B/323/ 326/411/201/120B/148/149 IPC, 25 Arms Act, Police Station Civil Lines, Amritsar, (Convicted on 04.01.2018 for 07 years imprisonment)
- ii) FIR No.12 dated 16.01.2009, under Sections 302/404/34 IPC, Police Station, B-Division, Amritsar, (Convicted for life imprisonment)
- iii) FIR No.280 dated 22.06.2016, under Section 8(2) 9, Good Conduct of Punjab Prison Act, 1962, Police Station Sultanwind, Amritsar (Convicted for 03 months)
- iv) FIR No.59 dated 30.06.2019 under Section 52A Prison Act, Police Station Kotwali Nabha, Patiala
- v) FIR No.43 dated 04.02.2020, under Section 52-A Prison Act, Police Station City Ferozepur.

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- vi) FIR No.93 dated 10.08.2021, under Sections 21, 29 of NDPS Act, PS Kulgari, Ferozepur.
- vii) FIR No.243 dated 06.10.2022, under Section 21, 27 NDPS Act, Police Station STF, Mohali”
- viii) FIR No.38 dated 04.02.2018, under Section 52 A Prison Act, Police Station Kotwali Kapurthala
- ix) FIR No.78 dated 30.03.2021, under Section 52-A Prison Act, Police Station City Ferozepur
- x) FIR No.93 dated 11.05.2020, under Section 21/29 NDPS Act, Police Sation Kulgari
- xi) FIR No.169 dated 28.08.2015, under Section 52-A Prison Act, Police Station Division No.7, Ludhiana
- Xii) FIR No.143 dated 26.12.2017, under Sections 21 and 27 of NDPS Act, Police Station Islamabad, Amritsar

6. The respondents have also given list of the decided cases/FIRs lodged against the petitioner which are as under:-

- “i) FIR No.670 dated 24.10.2016, under Sections 379/379-B/323/324/326/400/201/120-B/148/149 IPC, 25/54/59 Arms Act, Police Station Civil Lines, Amritsar
- ii) FIR No.280 dated 22.09.2016, under Section 8(2)(9) of Punjab Good Conduct Prisoners Act, 1962, Police Station Sultanwind
- iii) FIR No.52 dated 15.02.2020, under Section 52 A of Prison Act, Police Station City Ferozepur
- iv) FIR No.143 dated 26.12.2017, under Sections 21 and 27 of NDPS Act, Police Station Islamabad
- v) FIR No.106/2011, under Section 406 IPC, Police Station Cantonment Amritsar
- vi) FIR No.227 dated 30.09.2018, under Sections

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186, 353, 34 IPC and Section 52-A of Prison Act, Police Station Kotwali, Kapurthala

vii) FIR No.12 dated 16.01.2009, under Sections 302/382 IPC, Police Station B-Division, Amritsar”

7. The Assistant Commissioner of Police in his separately filed reply has submitted that since the petitioner had misused the relief of parole granted to him in the year 2016 and had committed offences under the Prison Act as well as under the provisions of NDPS Act, therefore, there was apprehension that if released on parole, he could again indulge in illegal trading of drugs or involve other persons in drug peddling. It is also submitted that there was also threat to the security of the State and maintenance of public order in case the petitioner was released and that is why recommendation was not made for his release on parole.

8. Learned counsel for both the parties have been heard at considerable length and material placed on record has been perused.

9. As per Section 3 (1) of the Act, 1962, the State Government may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-Section (2) any prisoner, if the State Government is satisfied that it is desirable so to do for any other sufficient cause. As per sub-Section 2 (b), such release can be for a period of four weeks. Then as per the Punjab Good Conduct Prisoners (Temporary Release) Amendment Act, 2015 (For short “Act, 2015”), a clause was inserted as “aa” in Section 2 giving the definition of ‘hardcore prisoner’ as per which a person confined

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in prison under a sentence of imprisonment, who has been convicted of an offence of rape with murder under Section 376 read with Section 302 of IPC or an offence punishable under Section 14 of the POCSO Act was a hardcore prisoner. By this very amendment, Section 5-A was inserted as per which, a hardcore prisoner was not entitled to be released on parole except temporarily on the grounds mentioned in Clauses (a) or (b) of Section 3 (1) after imposing some extraordinary conditions. Then by issuance of notification dated 16.01.2019, the Punjab Good Conduct Prisoners (Temporary Release) Amendment Act, 2018 had come into operation and as per this amending Act, some additional grounds for temporary release of the prisoner were added. The petitioner is admittedly not a hardcore prisoner.

10. A perusal of the impugned order dated 30.07.2020 reveals that the prayer made by the petitioner for grant of release on parole for a period of eight weeks had been rejected on the ground that there was apprehension of breach of state security and maintenance of public order, if he was released on bail. In his reply, the Assistant Commissioner of Police has taken a new plea to the effect that the petitioner could again indulge in illegal trading of drugs or drug peddling and there was also a threat to the security of State and maintenance of public order if he was released on bail and that is why, his claim was not recommended. No doubt, it is well settled proposition of law that a convict cannot claim release on parole as a matter of right because it is just a privilege provided by the State. This privilege can be given on certain specific grounds and benefit can be refused in case the refusal is based on intelligible differentia and has a nexus to the object of

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the rules. Reference in this regard can be made to the observations made by this Court in CWP No.10236 of 2018 decided on 26.04.2018 titled as **Virender @ Dhillu v. State of Haryana and others**, wherein it was observed so and it was also observed that a prisoner may be released temporarily by the State Government in case it is desirable for a sufficient cause.

11. In this case, there is no basis for the plea as taken in the impugned order dated 30.07.2020 that the petitioner is a threat to the security of State and maintenance of public order. Simultaneously, the plea taken in the reply that the petitioner may indulge in commission of offence under NDPS Act is also without any force. It is not the case of the respondents that the petitioner is otherwise not entitled to be extended the benefit of release on parole. It is well settled that it is necessary for a convict to maintain his contact with society so as to enable his reformation and transform him into a responsible citizen on his release. It is also the obligation of concerned authority to exercise its discretion in relation to an honest expectation perceived by a convict in this regard.

12. In view of this discussion, it is held that the impugned order does not deserve to sustain. Accordingly, the same is set aside, the petition is allowed and the petitioner is ordered to be released on parole for a period of 06 weeks from the date of his release from jail, subject to his furnishing sufficient bonds in terms of statutory provisions to the satisfaction of the competent authority, who would also impose requisite conditions to ensure that the temporary release is not misused. The petitioner shall also undertake

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to maintain peace and good behavior during this period. He shall surrender back to jail after expiry of the period of his temporary parole.

28.08.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No