

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Writ Petition No.1626 of 2014

Date of Decision : July 14, 2015

Hargurpreet Singh

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Sanjeev Sharma, Advocate.

Mr. K.D.S. Sidhu, Additional Advocate General, Punjab.

T.P.S. MANN, J.

The petitioner, who stands convicted under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 read with Section 149 IPC, Section 307 read with Section 149 IPC and Section 25 of the Arms Act read with Section 149 IPC and sentenced to undergo imprisonment for twenty years, has filed the present petition under Articles 226/227 of the Constitution of India and Section 482 Cr.P.C. for issuance of directions to the respondents to release him on parole for six weeks so that he can meet his family members and look after his agricultural work.

According to the petitioner, he has maintained good conduct in jail while undergoing the sentence of imprisonment imposed upon him. He is the first offender and except for the aforementioned case, he is not involved in any other case. After undergoing a period of four months as a convict in the

aforementioned case, the petitioner sought his release on parole to meet his family members. Alongwith his request, the petitioner appended copy of the Panchayatnama (Annexure P-1) whereby the Panchayat recommended the case of the petitioner for four weeks parole and also stated that there would be no danger to the peace in the village in the event of the petitioner coming out on parole. The request of the petitioner for release on parole was forwarded by the Jail Superintendent to the higher authorities. However, the Senior Superintendent of Police, Tarn Taran vide letter dated 22.7.2014 (Annexure P-2) did not recommend the release of the petitioner on parole. Accordingly, the State has rejected the claim of the petitioner for grant of parole.

Further case of the petitioner is that the father of the petitioner has since died whereas his mother is ill. His house is in bad shape. Even his agricultural land needs to be taken care of. He has further reiterated that there would be no danger to the peace in the village in case he is released on parole. He has also appended the affidavits of Sukhraj Kaur, Sarpanch, Harjinder Singh, Member Panchayat and Heera Singh, Member Panchayat as Annexures P-3, P-4 and P-5, respectively, wherein they have also stated that there would be no danger to the peace on the petitioner coming out on parole and they have also made themselves responsible to re-admit him to jail on the expiry of the period of parole.

Reply has been filed by the Jail Superintendent,

wherein it is stated that the petitioner stands convicted under Section 21(c) of the NDPS Act and sentenced to undergo imprisonment for twenty years as 26 kgs. of heroin was recovered from him and his co-accused. Further, on 11.1.2013, Gurjant Singh @ Bholu and Rachhpal Singh @ Dana, the co-accused of the petitioner who were sent to Civil Hospital, Ferozepur for check-up upon complaint of backache and chest pain, escaped from the custody of the jail guards while they were returning back to the jail. Regarding the said incident, a case FIR No.11 dated 11.1.2013 under Sections 223/224/225/120-B IPC was registered at Police Station City, Ferozpur. It has also been mentioned that the aforementioned two co-accused have not been arrested so far and three employees of the jail have been dismissed from service. It is further mentioned that the District Magistrate, Tarn Taran has not recommended the parole to the petitioner on the basis of the verification report of the Senior Superintendent of Police, Tarn Taran, who mentioned that the petitioner was coming on parole for the first time and he would again indulge in the business of heroin after coming out on parole.

On 18.2.2015, learned State counsel sought a short adjournment for obtaining instructions about the petitioner indulging in the business of heroin after coming out on parole and also on his co-accused indulging in similar business. Pursuant to the same, fresh reply by way of affidavit of Jaswant Singh, PPS, Deputy Superintendent of Police (Investigation), Tarn Tarn was filed which was taken on record. In para 3 of the same, it stood

mentioned therein that two co-accused of the petitioner, namely, Gurjant Singh alias Bholu and Rachhpal Singh alias Dana, ran away from the judicial custody and were again indulging in similar crime and cases vide FIR No.49 dated 20.3.2013 under Section 382 IPC and 25/27 Arms Act, Police Station City, Abhor, FIR No.146 dated 2.5.2014 under Section 21 of the NDPS Act, Police Station City Tarn Taran, FIR No. 44 dated 3.4.2013 under Sections 411, 414, 489-A, 489-B, 489-C and 489-D IPC, Sections 15/18/21/22 NDPS, Section 25 of the Arms Act, and Sections 3/34/20 Indian Penal Act (*sic.*), Police Station Sarhali and vide FIR No. 76 dated 19.6.2014 under Section 21 NDPS Act, Police Station Sarai Amant Khan and FIR No.90 dated 18.7.2014 under Sections 411/414/489-A, 489-B, 489-C and 489-D IPC, Sections 15/18/21/22 NDPS, under Section 25 Arms Act.

In view of the large recovery of heroin and the fact that the two co-accused of the petitioner after escaping from judicial custody have again started indulging in similar crime and in the event of the petitioner coming out on parole, he may also follow the same path, no case is made out for any interference in the order of the District Magistrate, Tarn Taran rejecting the claim of the petitioner for release on parole.

The petition is devoid of any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

July 14, 2015

(MAHAVIR S. CHAUHAN)
JUDGE