

In the High Court of Punjab and Haryana at Chandigarh

CRWP No. 1058 of 2015

Date of Decision: 28.8.2015

Gurkirat Singh @ Khopara

---Petitioner

versus

State of Punjab and another

---Respondents

**Coram: Hon'ble Mr. Justice S.S.Saron
Hon'ble Mrs. Justice Rekha Mittal**

**Present: Mr.Rajbir Singh, Advocate
for the petitioner**

Mr. P.P.S.Theti, Addl. A.G.Punjab

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

S.S.Saron, J.

The petitioner in the present petition under Article 226 of the Constitution of India seeks directions to the respondents to release him on four weeks' parole so as to enable him to get the surgery of his father conducted and also look after him.

The petitioner was tried in case FIR No. 35 dated 28.2.2013 registered at police station Dirba, District Sangrur for offences punishable under Sections 302, 307, 120-B, 148, 149 Indian Penal Code ("IPC" for short); besides, Section 25 of the Arms Act. He was convicted and sentenced to life imprisonment by the learned trial Court. Against his

conviction and sentence, he has filed Criminal Appeal No. D-1870-DB of 2014, which is pending in this Court. At present, the petitioner is confined in District Jail, Sangrur where he is undergoing his sentence of imprisonment. According to the petitioner, he has been in jail since 25.11.2014 and he has maintained good conduct while in jail. He has not misused the concession of parole earlier granted him. Even during trial, the petitioner was released on bail but according to him, he did not misuse the concession of bail that was given to him.

The father of the petitioner is stated to be suffering from serious ailment and he needs immediate surgery and is to be immediately operated upon. The doctors at Civil Hospital, Sangrur have issued a medical certificate (Annexure P-1) in this regard. According to the petitioner, his father is suffering from massive lump on the right side of his chest. He has been advised immediate surgery otherwise he may land into serious complications. According to the petitioner, his father was admitted in the hospital on 16.6.2015 and was discharged on 20.6.2015 (Annexure P2). He was advised surgery after three weeks. The petitioner surrendered back in jail on 3.7.2015 within time after the period of fifteen days parole granted to him had expired. Thereafter, the petitioner it is stated orally requested the jail authorities and apprised them of the fact that the surgery of his father could not be got done and requested for his immediate release on parole.

In the reply that has been filed, it has inter alia been stated that the petitioner was granted emergency parole for two weeks by the Superintendent, District Jail Sangrur (respondent No.2) for the treatment of his father. He was released on two weeks' emergency parole on 18.6.2015

and he surrendered back in jail on 3.7.2015 within time. Thereafter, he did not approach the respondents for grant of another emergency parole and had he approached the respondents, his request could have been considered accordingly.

According to the learned counsel for the petitioner, the petitioner apprehends that since he has recently surrendered on 3.7.2015 his second parole may not be considered at this short duration.

Learned counsel for the State submits that the parole of the petitioner would be considered, in accordance with law.

After giving our thoughtful consideration to the matter, the second parole after the first had been initially availed of, can be granted. In **Satyavart v State of Haryana 1997 (3) RCR (Criminal) 672**, which was a case under the Haryana Act, this Court held that restriction could not be imposed by executive instructions for seeking second parole. In **Kirpal Singh v. State of Haryana 1997 (3) RCR (Criminal) 735**, also a case under the Haryana Act, this Court held that where the petitioner therein had already been granted two weeks' parole and shortly afterwards he was seeking second parole to attend the marriage of his sister's son, the second parole could not be refused and that there were no restrictions in the number of times to grant parole. The only restriction was that the total period should not exceed four weeks.

In the circumstances, it is to be noticed that there is no provision in the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 ('Act' - for short) which restricts the number of emergency parole that a prisoner may seek for the condition as envisaged by Section 3 of the Act.

In view of the aforesaid position, the criminal writ petition is disposed of and if the petitioner makes a representation for his temporary release on parole, the same shall be considered by the competent authority in accordance with law and keeping view the urgency, the same shall be considered as expeditiously as possible preferably within two weeks from the date of submission of representation.

(S.S.Saron)
Judge

(Rekha Mittal)
Judge

28.8.2015

PARAMJIT