

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

**CRWP No. 421 of 2015
DECIDED ON: MAY 12, 2015**

JIYA LAL

.....PETITIONER

VERSUS

STATE OF UT CHANDIGARH AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

- 1. Whether the Reporters of the Local papers may be allowed to see the judgment?**
- 2. To be referred to the Reporters or not ?**
- 3. Whether the judgment should be reported in the digest?**

Present: Mr. H.S. Jaswal, Advocate
for the petitioner.

Mr. J.S. Toor, Advocate
for the respondent-UT Chandigarh.

None for respondent No.3.

JASPAL SINGH, J.(Oral)

Instant petition has been preferred by Jiya Lal-petitioner under Article 226 of Constitution of India, seeking quashing/setting aside the impugned order dated February 23, 2015 (Annexure P-4) passed by respondent No.1 whereby, parole case of petitioner has been rejected with further prayer for grant of parole to him for 28 days under the provisions of The Punjab Good Conduct Prisoner's (Temporary Release) Act 1962 (for short 'Act').

2. Learned counsel for the petitioner contended that declining of

parole on the ground that there is every possibility or likelihood of committing of theft or robbery by the petitioner in case he is released on parole is not a cogent and convincing ground. Moreover, in the case in hand the Gram Sabha, Saidpur has already furnished its report fruitful to the petitioner. Even otherwise, petitioner is first offender and has never availed any parole or furlough after the date of dismissal of his appeal. The impugned order is not sustainable in the eyes of law and deserves to be set aside.

3. On the other hand, learned counsel for UT Chandigarh has contended that request of petitioner for release him on parole has been declined by the competent authority on the basis of report of District Magistrate, Amethi (UP) and Superintendent of Police, Amethi (UP), as the release of petitioner endangers the security of State and maintenance of public order. The impugned order is legal, valid and inconsonance with the provisions of Act.

4. This Court has given an anxious thought to the contentions raised by learned counsel for the parties and has perused the record.

5. Undisputably, an appeal preferred by petitioner challenging his conviction and sentence awarded to him vide judgment of conviction and order of sentence dated July 26, 2008 by the then Additional Sessions Judge, Chandigarh in case FIR No. 225 dated August 17, 2000 under Sections 460, 320 and 120-B IPC registered at Police Station, West, Chandigarh has since been dismissed by a co-ordinate Bench of this Court vide order dated January 23, 2012 and at present no appeal or revision is pending against the said order. On February 25, 2012, an application seeking grant of 28 days parole

under the provisions of Act was moved by the petitioner to respondent No.2. The said application was forwarded by respondent No.2 to respondent No.3 for conducting verification as well. Subsequently his request for grant of 28 days parole was rejected vide order dated March 04, 2014 i.e. after a period of two years, simply on the ground that in case petitioner is released on parole there is every possibility of committing robbery by him. Similarly, on October 03, 2014 petitioner moved another application to respondent No.2 seeking grant of parole to him but that application was also rejected on the same ground. Lastly, on January 05, 2015, he again applied for grant of 28 days parole under the provisions of Act but despite the fact there was a favourable report by panchayat (Annexure P-3), his case was again not recommended for parole just on the ground that there is every possibility of committing theft or robbery. The above-referred facts necessitated the petitioner to file instant petition.

6. Petitioner has sought his parole for agricultural operations. Section 3(1)(c) provides for the release of a convict for agricultural purposes, which reads as under:

“3. Temporary release of prisoners on certain grounds:- (1) The State Government may, in consultation with the District Magistrate or any other officer appointed in this behalf, by notification in the official gazette 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.

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(c). The temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land or his father's undivided land actually in possession of the petitioner.”

7. A glance at Section 6 of the Act clearly reveals that release of petitioner on parole can be refused only on the ground that the same is likely to endanger the security of the State or the maintenance of public order.

8. In the case in hand none of the said grounds exists against the petitioner. There is no such specific report that release of petitioner on parole would endanger the security of the State or the maintenance of public order. The alleged report of Superintendent of Police, Jail, Chandigarh only prescribes that petitioner may be involved in criminal activities, if released on parole. There is also no such material brought on record in this regard.

9. Learned counsel for the petitioner has also referred to judgments **Tarlochan Singh v. State of Haryana & others; 2009 (1) Criminal 376;** **Vinod vs. State of Haryana and others; 2010 (4) RCR (Criminal) 152 and** **Krishan @ Alok vs. State of Haryana & others; 2011 (1) RCR (Criminal) 389;** wherein, parole for agricultural purpose was granted by a coordinate Bench of this Court while setting aside the order passed by competent authorities.

10. Adverting to the facts of the case in hand, release of petitioner on parole has been declined by competent authority simply on the ground that a report of Superintendent of Police, Amethi (UP) has revealed that if convict is released on parole there is ever possibility of theft or robbery. This apprehension is not based on any material. Even otherwise, conduct and behaviour of the petitioner in Jail remained satisfactory. He has not availed any parole or furlough after his conviction. So, in such circumstances, it cannot be said that impugned order is justified on any of the ground highlighted in Section 6 of the Act. As such, impugned order is not

sustainable in the eyes of law. In the cases referred to above, order passed by a competent authority refusing the release of petitioner on parole for agricultural purposes was set aside.

11. In the light of what has been discussed above, impugned order dated February 23, 2015 (Annexure P-4) is set aside by way of acceptance of instant petition. The matter is remitted to the respondents with a direction to re-consider the case of petitioner for his release on parole in the light of observations made by this Court, as per Act, rules and instructions on the point within a period of one month from the date of certified copy of this order.

MAY 12, 2015
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(JASPAL SINGH)
JUDGE