

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

**CRWP No. 422 of 2015
DECIDED ON: MAY 28, 2015**

PARGAT SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Surinder Garg, Advocate
for the petitioner.

Mr. RPS Sidhu, AAG, Punjab.

JASPAL SINGH, J.(Oral)

Instant petition has been preferred by Pargat Singh-petitioner under Article 226 of Constitution of India, seeking quashing/setting aside the letter issued vide endorsement dated July 24, 2014 by the office of District Magistrate, Tarn Taran to the office of Director General of Police (Prisons), Punjab whereby the release of petitioner on parole for four weeks under the provisions of The Punjab Good Conduct Prisoner's (Temporary Release) Act 1962 (for short 'Act') has not been recommended .

2. Undisputably, petitioner was convicted vide judgment of conviction dated June 03, 2006 passed by learned trial Court in case FIR No. 78 dated April 22, 2005 under Sections 302, 364 and 120-B IPC read with Sections 34 IPC and 201 IPC and sentenced to undergo imprisonment for life ; besides payment of fine. An appeal i.e. CRA No. D-963-DB of 2006

preferred by petitioner challenging his conviction and sentence awarded to him vide judgment of conviction and order of sentence dated June 03, 2006 has since been dismissed by a Division Bench of this Court vide judgment dated December 01, 2012 upholding the judgment passed by learned trial Court.

3. In the year 2014 when the petitioner was lodged in Central Jail, Ferozepur, he applied for parole for four weeks before Superintendent of Jail, Ferozepur. The said case was sent to respondent No.3 for report and recommendation, who further sent the same to Senior Superintendent of Police, Tarn Taran who vide his letter No. 25280/B dated July 19, 2014 submitted its report to District Magistrate, Tarn Taran whereby, parole was not recommended and ultimately parole was declined by observing that there is danger to maintenance of public law and order and there is an apprehension of breach of peace and he may jump the parole. Aggrieved against the said order instant petition has been preferred.

4. The contention of learned counsel for the petitioner is that declining of parole on the ground that there is danger to maintenance of public law and order so there is an apprehension of breach of peace is not a cogent and convincing reason, especially in the circumstances that no such grounds exists against petitioner. Even otherwise, conduct and behaviour of petitioner in jail remained satisfactory. He has not availed any parole or furlough after his conviction. The mere fact that he may be involved in some criminal case cannot be equated to endangers the security of State or maintenance of public order. Since impugned letter is not sustainable in the eyes of law, the same deserves to be set aside and application moved by the

petitioner for granting parole merits acceptance.

5. On the other hand learned State counsel has argued that parole has been declined on the basis of report of District Magistrate, Tarn Taran as the release of petitioner endangers the security of State and maintenance of public law and order is legal, valid and absolute in consonance with the provisions of Act.

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

7. Concededly, after the dismissal of an appeal preferred by petitioner, he has not been granted parole. Moreover, parole to the petitioner has been declined simply on the ground that there is danger to maintenance of public law and order and apprehension of breach of peace, if the prisoner is released on parole.

8. Adverting to the facts of the case in hand, there is no specific report collected by the competent authority, as to how and in what manner release of petitioner on parole would endangers the security of State or maintenance of public order. No evidence to this effect has been collected by the police before non-recommending the case of petitioner for grant of parole. Even otherwise, 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. However, in the present case none of the grounds exists against the petitioner. Moreover, merely on such grounds agricultural parole cannot be denied, especially in the circumstances that it is the duty of State to maintain law and order and protect the lives and liberty of its citizens. During the

period of parole, competent authority can supervise the conduct and behaviour of petitioner as well as the profession, if any he adopts during the period of parole.

11. In the light of what has been discussed above, impugned letter issued vide endorsement dated July 24, 2014 by the office of District Magistrate, Tarn Taran to the office of Director General of Police (Prisons), Punjab 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 two weeks from the date of receipt of certified copy of this order.

MAY 28, 2015
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(JASPAL SINGH)
JUDGE