

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No.1014 of 2015 (O&M)
Date of decision: February 15, 2016

Daljeet Singh alias Bali

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Harpreet Singh Multani, Advocate
for the petitioner.

Mr.P.S.Grewal, Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this criminal writ petition under Article 226/227 of the Constitution of India for issuing directions to the respondents to grant parole to him for four weeks to take care of his ailing mother.

It is mainly stated in the petition that petitioner has been convicted in FIR No.127 dated 23.04.2005 under Sections 302 and 120-B IPC vide judgment dated 04.11.2011 and sentenced to undergo imprisonment for life. The appeal filed by the petitioner before this Court has also been dismissed. It is further stated that one more FIR was registered against the petitioner under Sections 307, 323, 324 and 506 IPC and he was convicted by the Court of learned Addl.

Sessions Judge vide judgment dated 06.02.2013 and sentenced to undergo rigorous imprisonment for a period of 5 years and appeal against the same, is pending before this Court. It is also stated in the petition that petitioner's mother is an old lady and is not keeping well and there is no one else to take care of her. The petitioner had applied for parole for four weeks to the Superintendent Jail, Rupnagar and Superintendent forwarded the application to the District Magistrate, Jalandhar, for enquiry, police report and recommendation. It is also stated that as per rules, the application is to be decided within one month and if it is to be rejected, then report citing the reasons for the same should be sent and conveyed to the convict. On 28.08.2014 vide letter No.2708, the Superintendent of Jail, Rupnagar sent a reminder to the office of District Magistrate, Jalandhar. On 16.09.2014 vide letter No.3017, the Superintendent of Jail, Rupnagar again sent a second reminder. It is further stated that after repeated requests of the petitioner, Superintendent of Jail on 08.12.2014 again sent a second application for grant of parole for four weeks. It is in the petition that a contempt petition has been filed in which respondent No.2 filed reply by way of short affidavit declining the application for parole for four weeks of the petitioner on the report of Senior Superintendent of Police, in which he cited that the petitioner is a habitual criminal and many cases are registered against him, which are still pending and the petitioner can abscond during the parole, therefore, it is stated that his grant of four weeks parole cannot be recommended.

Notice of motion was issued and learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that as per order Annexure P-7, the parole case of the present petitioner has been rejected on the ground that another five cases have been registered against the convict Daljeet Singh alias Bali, which are still pending. The petitioner can abscond during the parole, therefore, his case for grant of parole of four weeks cannot be recommended.

The perusal of the order Annexure P-7 shows that case of the petitioner was sent by Superintendent, District Jail, Rupnagar to the District Magistrate, Jalandhar for seeking report from Senior Superintendent of Police (Rural), Jalandhar. The Senior Superintendent of Police (Rural) Jalandhar vide letter dated 07.04.2015 gave a detailed report stating that another five cases have been registered against the convict Daljeet Singh alias Bali, which are still pending. The convict Daljeet Singh alias Bali can abscond during the parole, therefore, his case for grant of four weeks parole cannot be recommended. Dissatisfied with the report, the matter was again sent back to SSP with the observation/remarks that the report regarding grant of four weeks parole be sent in the light of directions issued by this Court in criminal writ petition No.34013 of 2010. The SSP Jalandhar vide letter dated 13.05.2015 again sent his detailed report to the District Magistrate, Jalandhar, by stating as under:-

“The applicant along with his accomplices has been involved in committing the events with the intention of assassination, extortion, snatching, spoiling, attacking with the intention to kill, looting the passenger duly equipped with illegal weapons and besides above is doing the business of forged currency at large scale, from it is clearly established that he is habitual of committing crime again and again. The applicant after releasing on leave can perform some major incident after joining hands with persons of criminal nature. On his release the security and peace of public (public order) is likely to endanger, which will not be in the public interest.”

Learned Deputy Commissioner vide order dated 13.05.2015 held that in view of the report of SSP, Jalandhar, there is endanger to the Public Order on release of convict Daljeet Singh alias Bali and the application was rejected.

Learned counsel for the petitioner cited judgment passed by this Court in ***Jasbir Singh vs. State of Punjab, 1999(2) RCR (Criminal) 390***, in which parole was refused to the convict on the ground that release of petitioner would become a source of fear to co-villagers and it is held that no supporting evidence is available to sustain this belief. It is further held that apprehension of fear cannot be a ground to refuse parole. It is also held that if State apprehends danger to security of State or maintenance of Public Order during parole, the State should spell out how it has reached to this conclusion.

Learned counsel for the petitioner also cited judgment passed by this Court in ***Anup vs. State of Haryana, 1995(1) RCR (Criminal) 507***, in which also it is held that mere an apprehension of breach of peace is not one of the grounds envisaged under Section 6

of the Haryana Good Conduct Prisoners (Temporary Release) Act, to deny temporary release to a prisoner and the order of denial of temporary release was quashed.

Learned counsel for the petitioner also cited judgment passed by this Court in ***Sunder vs. Inspector General of Prisons and others, 1991(1) CurLJ (CCR) 49***, in which it is held that parole to petitioner could only be refused if his release was likely to endanger the security of the State or the maintenance of the public order. It is further held that mere mention in the rejection order that peace was likely to be disturbed in case petitioner is released on parole, cannot be considered sufficient compliance with the provisions of Section 6 of the Act inasmuch as in the absence of specific mention that peace was likely to endanger the security of the State or the maintenance of public order. Learned counsel for the petitioner also placed reliance upon the judgments passed by this Court in ***Jai Ram vs. State of Punjab, 2001(2) RCR (Criminal) 158*** and ***Balwan Singh vs. State of Haryana and another 1991(3) RCR (Criminal) 121***. I have gone through all the above-cited judgments and the same fully apply in the present case.

In the impugned order dated 13.05.2015, the competent authority has not mentioned as to how the State apprehends endanger to security of State or maintenance of Public Order if the convict is released on parole. Mere pendency of other cases is not a ground for refusing the parole.

Keeping in view the above discussion, the order dated

13.05.2015 (Annexure P-7) is not as per law and the same is set aside.

Therefore, finding merit in the present criminal writ petition, the same is allowed. The respondents are directed to re-consider the matter as per law within a period of one month after receiving the certified copy of the order.

February 15, 2016
Vgulati

(INDERJIT SINGH)
JUDGE