

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

Crl. Writ Petition 1592 of 2015
Date of Decision : February 10, 2016

Gurbhej Singh @ Bheja

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present : Mr. Balbir Singh Jaswal, Advocate
for the petitioner.

Dr. Deipa Singh, Addl. A.G., Punjab.

T.P.S. MANN, J.

The present petition has been filed by Gurbhej Singh @ Bheja-petitioner under Article 226 of the Constitution of India for issuance of a writ or direction to quash the order dated 8.4.2015 (Annexure P-1) passed by the Deputy Commissioner, Tarn Taran whereby his case for the grant of parole has been rejected.

The petitioner stands convicted in case FIR No. 184 dated 8.9.2007 registered at Police Station Sidhwan Bet, District Ludhiana under Section 15 of the Narcotic Drugs and

Psychotropic Substances Act and sentenced to undergo imprisonment for twelve years. Against his conviction and sentence, he has filed an appeal which was admitted on 3.3.2014.

According to the petitioner, he is behind the bars for the last more than eight years. He applied for six weeks' parole for agricultural purposes and to meet the members of his family. His father is an aged person and his wife and minor children are residing in the village. The said application for parole was forwarded by the Deputy Commissioner, Tarn Taran to the Senior Superintendent of Police, Tarn Taran for verifying the facts mentioned therein. The Senior Superintendent of Police, however, did not recommend the release of the petitioner on parole on the ground that there was an apprehension of the petitioner not surrendering on the completion of the period of parole. It is submitted that the entire Panchayat and respectables of the village including the Numberdar have certified that the presence of the petitioner is required so that he may cultivate the land especially when his father is an aged person and there is none else who could cultivate his land. Copy of the resolution passed by the Panchayat has been appended with the petition as Annexure P-2.

Upon notice, reply has been filed by the

Superintendent, Central Jail, Ludhiana on behalf of respondents No.1 and 2 wherein it is mentioned that the petitioner has undergone eight years, four months and nine days of actual sentence. Further, the parole case of the petitioner was initiated by the Jail Superintendent and, thereafter, the Deputy Commissioner forwarded it to the Senior Superintendent of Police for police verification. However, the Deputy Commissioner, Tarn Taran vide order dated 8.4.2015 on the basis of the report of the Senior Superintendent of Police, Tarn Taran in which it was mentioned that 40 bags of poppy husk were recovered from the petitioner and there was apprehension that he might not surrender on the expiry of the period of his parole, rejected his case for parole. It has also been stated that on 22.1.2014, 55 intoxicant tablets were recovered from the petitioner during his search inside the jail and in that regard FIR No. 186 dated 22.11.2014 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act stands registered at Police Station Division No.7, Ludhiana. As the petitioner has committed a jail offence, he is not entitled to be released on parole.

After hearing learned counsel for the parties, this Court finds that the petitioner had earlier moved the authorities for release on parole but the said application was declined by the District Magistrate, Tarn Taran on 22.7.2014. Aggrieved of the

same, the petitioner filed Criminal Writ Petition 1290 of 2014 which came up for hearing on 22.1.2015. At that time learned counsel for the petitioner brought to the notice of the Court that Paramjit Singh, co-convict of the petitioner, had already been released on parole. Therefore, the petitioner was also entitled for similar relief. However, learned State counsel submitted that as per his instructions the case of Paramjit Singh for release on parole was considered by the District Magistrate, Amritsar as his village was situated in District Amritsar whereas the petitioner's village Nagoke was under the jurisdiction of District Magistrate, Tarn Taran. Despite the same, this Court while accepting the said petition, set-aside the order dated 22.7.2014 and directed the District Magistrate, Tarn Taran to obtain fresh verification and pass necessary orders on the request of the petitioner for the grant of parole. Subsequent thereto, the case of the petitioner was again initiated by the Jail Authorities and forwarded to the Deputy Commissioner, Tarn Taran, who further marked it to the Senior Superintendent of Police, Tarn Taran and on the basis of the report of the Senior Superintendent of Police, Tarn Taran, the case of the petitioner for parole has now been declined vide impugned order dated 8.4.2015.

Undeniably, during his incarceration in Central Jail, Ludhiana, the petitioner was found in possession of 55 intoxicant

tablets which were recovered during the search of the jail. In that regard, FIR No. 186 dated 22.11.2014 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act stands registered at Police Station Division No.7, Ludhiana.

Keeping in view the fact that the petitioner is undergoing twelve years' imprisonment for committing the offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act relating to recovery of 40 quintals of poppy husk and also the fact that while in jail, the petitioner was found in possession of 55 intoxicant tablets and, thus committed a jail offence, he does not deserve to be granted the benefit of parole.

The petition is, accordingly, dismissed.

**(T.P.S. MANN)
JUDGE**

February 10, 2016
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**(RAMENDRA JAIN)
JUDGE**