

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

247

CRWP-1030-2016

DATE OF DECISION: 17.8.2016

SURJIT SINGH

...Petitioner

VS.

STATE OF PUNJAB AND OTHERS

... Respondents

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. L.S. Chahal, Advocate
for the petitioner.

Ms. Ritu Punj, Addl. AG, Punjab.

S.S. SARON, J.

Learned counsel for the State has filed reply by way of affidavit of Sh. Hardeep Singh, PPS, Superintendent, District Jail, Sangrur on behalf of respondents No.1 to 3. The reply is taken on record.

The criminal writ petition has been filed seeking extension of the parole period of the petitioner by two months in terms of Section 3(1) (a) and (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 ('Act'-for short).

The petitioner has been convicted by the learned Sessions Judge, Ludhiana on 6.5.2015 in case FIR No.58 dated 13.4.2013 registered at Police Station Payal, District Ludhiana for the offence punishable under Section 302 of the Indian Penal Code. He has been sentenced to undergo life imprisonment, besides, pay a fine of Rs.10,000/- and in default of payment of fine to undergo rigorous

imprisonment for six months. The petitioner is also involved in another case i.e. FIR No.3 dated 1.1.2015 registered at Police Station, Division No.7, Ludhiana for the offence under Section 22 of the Narcotics Drugs and Psychotropic Substances Act, in which he is under trial.

The extension of parole has been sought by the petitioner on the ground that he decided to construct a house for his family and he is the only responsible person in his family. There is no one else to carry out the construction work. He had planned the construction of his house much earlier in time before availing the parole so that he could be present for the day to day construction. The petitioner got the site plan (Annexure P2) approved by the Municipal Council, Malerkotla on 16.2.2016. He has also obtained NOC (Annexure P3) granting permission for construction of the building. The sale deed (Annexure P4) on which the house is being constructed is in the name of the petitioner. It is submitted that due to bad weather and heavy monsoon, the construction of the house i.e. up to the level of putting the lintel could not be completed despite his efforts. Therefore, the extension of two months parole has been sought.

The parole that was granted to the petitioner was from 12.7.2015 to 3.8.2016 vide Annexure P-1. Notice of motion in the case was issued to the respondent on 2.8.2016 for today and till today the parole granted to the petitioner was extended on the surety bonds and surety already furnished which was ordered to continue to remain in operation.

In the reply that has been filed the fact of the house being constructed by the petitioner is not in dispute. A report (Annexure R-1)

has been obtained from SHO, Police Station City I, Malerkotla on 9.8.2016. According to the said report (Annexure R-1) the petitioner is constructing the house at Modern Colony, Street No.2, Naushehra Road, Malerkotla. It is stated that he is a responsible member in his home and there is no other member in the family to look after the construction work. He is living with his wife and two children. His daughter is 22 years of age and his son is 19 years of age. He is doing LL.B at Patiala.

It is further stated in the reply that has been filed that the construction of the house is still incomplete and it may take a long time to complete the house as other related work is still to be carried out even after putting the lintel. Prior to the present petition, it is submitted that the petitioner was granted parole and he was released on 23.10.2015 with the direction to surrender back in jail on 21.11.2015. The parole of the petitioner was extended by this Court vide order dated 9.12.2015 passed in CRWP No.1641 of 2015 up to 8.1.2016 on medical ground. Thereafter, the petitioner was released on parole on 9.4.2016 for six weeks and he could have constructed his house at that time. It is further submitted that the rainy season is still going on which would affect the construction of the house.

We have given our thoughtful consideration to the matter. In terms of the order dated 9.12.2015 passed in CRWP No.1461 of 2015, the petitioner was indeed granted extension of parole on medical grounds for a period of four weeks from 9.12.2015 till 8.1.2016. Thereafter, he was granted parole on 9.4.2016 for six weeks. At present he is on parole and he was to surrender back in jail on 03.08.2016. The extension of parole in the said circumstances would be inappropriate as indeed

according to the reply, the petitioner could have carried the construction of his house after his earlier release on parole on 9.4.2016 for six weeks. Even otherwise the extension of parole frequently to the petitioner would result in unnecessary benefits to him which he may not be entitled. It may be noticed that in terms of sub Section (2-A) of Section 3 of the Act, it is provided that the total period of temporary release of a prisoner, excluding the temporary release availed on account of the death of a family member of the prisoner and the temporary release availed of by a female prisoner on account of delivery of child, shall not exceed twelve weeks during the calendar year and shall be availed of on quarterly basis. In the present case, parole for a period of twelve weeks in the calendar year has already been availed of by the petitioner.

In the circumstances, no ground is made out for extension of the parole any further. The writ petition is accordingly dismissed. The petitioner shall surrender in jail by tomorrow i.e. 18.8.2016 within the time prescribed for surrendering in jail.

(S.S. Saron)
Judge

(Lisa Gill)
Judge

17.08.2016
SwarnjitS

Note: Is the order speaking/reasoned : Yes/ No
Is the order reportable : Yes/ No