

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CrWP No.1466 of 2016

Date of decision: 29.11.2016

Attar Singh

.... Petitioner

Versus

State of Punjab & anr.

.... Respondents

CORAM: Hon'ble Mr. Justice S.S. Saron.
Hon'ble Mrs. Justice Lisa Gill.

Present: Ms. Bhupinder Pal Kaur Brar, Advocate for the petitioner.
Ms. Ritu Punj, Addl. A.G., Punjab.

S.S. Saron, J.

Learned Counsel for the State has filed reply by way of affidavit dated 19.11.2016 of Sh. Hardeep Singh, PPS, Superintendent, District Jail Sangrur on behalf of respondents No.1 and 2. Besides, status report by way of affidavit dated 21.11.2016 of Sh. Sandeep Kumar, PPS, Deputy Superintendent of Police, Sub Division Sangrur has been filed. Another affidavit dated 29.11.2016 of Sh. Hardeep Singh, PPS Superintendent, District Jail, Sangrur mentioning the parole availed by the petitioner in this year has been filed. The reply, the status report and the short affidavit that have been filed are taken on record.

Heard learned counsel for the parties.

The present petition has been filed by the petitioner Attar Singh under Article 226 of the Constitution of India seeking setting aside of the order dated 3.11.2016 (Annexure P2) whereby the petitioner has been held to be ineligible for his next regular parole as he has enjoyed three weeks parole from 16.10.2015 (sic. 06.10.2016) to 28.10.2016 and his next parole is due on 1.1.2017.

A further prayer has been made by the petitioner for directing the

respondents to release him on six weeks parole to perform the wedding ceremonies of his sister Attardeep Kaur which is fixed for 2.12.2016. This, it is submitted, is in accordance with the entitlement of the petitioner in terms of Section 3 (1) (b) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 ('Act' - for short).

The petitioner was arrested in case FIR No.391 dated 14.11.2011 registered at Police Station City Sangrur for the offences under Sections 302, 341, 148/149 and 120-B Indian Penal Code ('IPC' - for short). He was tried by the learned Additional Sessions Judge, Sangrur and vide order dated 11.8.2015 he was convicted and sentenced to undergo life imprisonment; besides, pay a fine of Rs.1,00,000/- and in default thereof, undergo rigorous imprisonment for two years. At present, the petitioner is undergoing his life imprisonment. The appeal filed by the petitioner i.e. CRA No.D-1397-DB of 2015 against the said order of conviction and sentence is pending in this Court.

The petitioner filed an application praying for grant of six weeks parole so as to enable him to solemnize the marriage of his sister which is fixed for 2.12.2016. The petitioner prays temporary release on parole in accordance with his entitlement under Section 3 (1) (b) of the Act. The petitioner along with his application for parole submitted 'Panchayat Nama' (Annexure P1) given by the Nagar Nigam, Indira Colony, Gali No.3, Sohian Road, Sangrur. The members of the Nagar Nigam strongly recommended six weeks parole for the petitioner; besides, it was certified that the marriage of Attardeep Kaur, sister of the petitioner had been fixed with Kaka Rupinder Singh son of Gurjant Singh, village Sohian Kalan, Sangrur

on 6.12.2016. It was also stated that in the event of release of the petitioner on parole, there was no apprehension of breach of peace and neither was there any danger to the security of the State. The petitioner also stated that there were only his old parents and sister; besides, his father was a heart patient.

The application of the petitioner has been rejected by passing a speaking order (Annexure P2) stating that he had enjoyed three weeks parole from 6.10.2016 to 28.10.2016 and his next parole was due on 1.1.2017. Aggrieved against the same, the petitioner has filed the present petition seeking setting aside of the impugned order dated 3.11.2016 (Annexure P2) and for grant of parole.

In terms of the reply that has been filed, it is stated that the petitioner is not entitled for temporary release on parole as he had already availed three weeks parole from 6.10.2016 to 28.10.2016 and his next parole under the Act would be due on 1.1.2017. In terms of the status report that has been filed, release of the petitioner on parole has been recommended. It is stated that there is no apprehension/danger to law and order in case the petitioner is released on parole. In terms of the further short reply, that has been filed it is stated that the petitioner has availed parole of 84 days as entitled under the Act. He availed first parole of six weeks from 5.1.2016 to 17.2.2016, second parole of three weeks from 26.5.2016 to 17.6.2016 and third parole of three weeks from 6.10.2016 to 28.10.2016.

Learned Counsel for the petitioner submits that the presence of the petitioner for the marriage of his sister is most necessary and therefore, the parole is liable to be granted.

In response, learned Additional Advocate General for the State submits that the entitlement of the petitioner is due from 1.1.2017 as the petitioner has already availed 84 days of parole in the current calendar year. Therefore, in terms of Section 3 (2-A) of the Act, he is not entitled for further parole and it is for this reason that his next parole would be due in the next calendar year from 1.1.2017.

We have given our thoughtful consideration to the matter.

It is not in dispute that the petitioner has availed three paroles in the current financial year. He availed his first parole of six weeks from 5.1.2016 to 17.2.2016, second parole of three weeks from 26.5.2016 to 17.6.2016 and third parole of three weeks from 6.10.2016 to 28.10.2016. According to the reply that has been filed his next parole is due on 1.1.2017 during the next calendar year. According to learned Counsel for the State, the petitioner having availed of 84 days of parole during the current calendar year; therefore, he is now not entitled to parole in view of Section 3 (2-A) of the Act.

Section 3 (2-A) of the Act which has been referred to by the respondents for declining parole may be noticed. The same reads as follows:-

“The total period of temporary release of the prisoner, excluding the temporary release availed of on the death of 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 a calendar year and shall be availed of on quarterly basis:

Provided that any prisoner who is on temporary release for a specified period and wants to surrender to jail before the expiry of his temporary release period, he shall be allowed to do so.”

In terms of the above provision, it is provided that total period of temporary release of a prisoner is not to exceed twelve weeks during a calendar year and it is to be availed of on quarterly basis. The petitioner has already availed of twelve weeks parole i.e. 84 days as has been noticed above; besides, the last parole was availed of from 6.10.2016 till 28.10.2016 during the last quarter of the year. The petitioner having exhausted his parole in the current calendar year, he would not be entitled for further parole. Therefore, even though the parole has been recommended by the Police Authorities in terms of the status report and it is also stated that there is no apprehension/danger to law and order in case the petitioner is released on parole; however, in view of the statutory provision, the petitioner would not be entitled to parole in the current calendar year and that too in this last quarter of the year as he has already availed parole from 6.10.2016 to 28.10.2016.

In the circumstances, the criminal writ petition being devoid of merit, is accordingly dismissed.

(S.S. Saron)
Judge

29.11.2016.
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Note:

(Lisa Gill)
Judge

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| (1) | Whether the order is speaking/reasoned: | Yes. |
| (2) | Whether the order is reportable : | Yes. |