

(255)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CrWP No.800 of 2016
Date of decision: 14.9.2016

Avtar Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

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

Present: Mr. Sanjeev Sharma, Advocate for the petitioner.

Ms. Ritu Punj, Addl. A.G. Punjab and
Ms. Harleen Kaur, Asst. A.G., Punjab.

S.S. Saron, J.

The application submitted by Avtar Singh son of Nisan Singh, resident of Suhar Kalan, Police Station Kalanaur, Tehsil and District Gurdaspur addressed to this Court has been treated as Crl. Writ petition No.800 of 2016.

The petitioner Avtar Singh submitted that he is undergoing imprisonment at Central Jail, Gurdaspur. He submitted an application for getting parole about two years ago. His Panchayat had also taken his surety from him. However, the Incharge of Police made adverse remarks in his report. It is submitted that no one else has any objection if he go on parole. His parents have died. His children are small. There is no earning

member in his family behind him. It is prayed that he may be granted six weeks parole in accordance with the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 ('Act' – for short) so that he can look after his family and improve the financial condition of his family.

Reply by way of an affidavit of Sh. Dilbagh Singh, PPS Superintendent of Police, Central Jail, Gurdaspur has been filed on behalf of respondent-State.

In the reply it is submitted that the petitioner is undergoing rigorous imprisonment for fourteen years at Central Jail, Gurdaspur in case FIR No.10 dated 21.1.2012 registered at Police Station State Special Operation Cell, Amritsar for the offences under Sections 21, 29 and 25 NDPS Act; besides, Section 25 of the Arms Act. The petitioner was convicted by the learned Additional Sessions Judge, Amritsar on 25.4.2014. He was sentenced to undergo rigorous imprisonment for fourteen years; besides, pay a fine of rupees five lacs and five thousand and in default thereof, undergo rigorous imprisonment for five years and three months. The petitioner filed an application dated 15.9.2014 for parole for a period of four weeks to repair his house. The application of the petitioner was sent by the then Superintendent Jail to the District Magistrate, Gurdaspur vide letter dated 16.9.2014. This was endorsed to the Additional Director General of Police (Prisons) Punjab vide endorsement dated 16.9.2014. The District Magistrate, Gurdaspur vide letter dated 22.12.2014 (Annexure R-1) informed the Additional Director General of Police (Prisons) that the parole

case of the petitioner was not recommended in view of the report submitted by SSP, Gurdaspur which is to the effect that there would be breach of security and public order if the petitioner comes out on parole. However, the Additional Director General of Police (Prisons), Punjab vide letter dated 24.12.2015 (Annexure R-II) has informed the Deputy Commissioner that the competent authority to sanction or for refusal of the parole to a prisoner is only the Deputy Commissioner concerned in terms of the Punjab Good Conduct Prisoners (Temporary Release) (Amendment) Act 2015 as per Punjab Govt. Notification dated 26.11.2014. Therefore, the District Magistrate, Gurdaspur has been requested vide letter dated 1.1.2016 to pass a specific order whether parole case of the petitioner is sanctioned or rejected by him. It is submitted that the parole case of the petitioner is under consideration with the office of District Magistrate, Gurdaspur.

Keeping in view the aforesaid facts and circumstances and after giving our thoughtful consideration to the matter, it is to be noticed that in terms of the Punjab Good Conduct Prisoners (Temporary Release) (Amendment) Act 2015 as per Punjab Govt. Notification dated 26.11.2014, the competent authority to decide the parole of the petitioner is District Magistrate, Gurdaspur.

Accordingly, the writ petition is disposed of with the direction to the District Magistrate, Gurdaspur to consider the parole case of the petitioner Avtar Singh in accordance with law and pass a speaking order thereon as expeditiously as possible and preferably within four weeks from receipt of the copy of the order.

The Superintendent of Police, Central Jail, Amritsar shall inform the Deputy Commissioner, Gurdaspur of the order and the directions that have been passed.

(S.S. Saron)
Judge

(Lisa Gill)
Judge

14.09.2016
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Note:

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| 1. Whether Speaking/reasoned | : | Yes. |
| 2. Whether reportable | : | No. |