

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

**CRWP-1026-2017 (O&M)
Date of decision:10.11.2017**

Kuldeep Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Dhriti J. Sharma, Advocate
for the petitioner.

Mr. A.S.Gill, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for issuance of directions to the respondents for granting six weeks' parole on the ground that he has to meet his family members.

Learned counsel for the petitioner has submitted that the petitioner has already moved an application with the respondent(s) and the same is accompanied with a Panchayat Resolution that there is no danger to peace of law, in case, the petitioner is granted parole.

In reply, filed by way of affidavit of Superintendent Central Jail, Ferozepur, it is submitted that the petitioner has convicted for 10 years rigorous imprisonment in case FIR No. 192 dated 29.09.2015 registered under Section 21 of NDPS Act. It is also submitted that respondent No.-3 i.e. Superintendent of Central Jail, Ferozepur has recommended the case of the petitioner for releasing him on parole for six weeks to the District Magistrate, Ferozepur, vide letter dated 23.06.2017 for taking appropriate action and thereafter, a reminder was also given vide letter dated 13.09.2017 in view of the directions given by this Court in CWP No.34013 of 2009. It

is further submitted in the affidavit that the Deputy Commissioner Ferozepur has declined the request for grant of six weeks parole vide letter dated 29.09.2017 on the basis of report of the Senior Superintendent of Police, Ferozepur that if he is granted parole, he may abscond or become proclaimed offender and indulge again in drug business.

A perusal of the custody certificate, which is attached as Annexure R-2, shows that the petitioner has undergone a period of 01 years in case FIR No. 192, dated 29.09.2015 and during the course of trial, he was granted regular bail on 17.02.2016 and remained on bail till his conviction i.e. 23.02.2017. A perusal of this custody certificate further shows that the petitioner is not involved in any other NDPS case either prior to 2015 or subsequent to registration of the FIR or during the period of one year when he remained on bail in this case. It is thus submitted on behalf of the petitioner that the report of the Senior Superintendent of Police, Ferozepur to the effect that the petitioner may misuse the concession of parole or indulge again in activity; is not correct as the petitioner has never misused the concession of bail during the pendency of the trial and was not found in involved any other such or similar case.

Learned counsel for the petitioner has relied upon the decision of this Court dated 10.02.2012 passed in Criminal Writ Petition No. 2459 of 2011 wherein, this Court has held as under:-

"In view of the above, we deem it appropriate to issue the following instructions:

(i) The request for parole and furlough should be considered by the District Magistrate within 21 days, Superintendent Jail within 05 days and Director General of Prisons within 10 days except in case of parole sought under clause (a) and (b) of sub-Section 1 of Section 3 of the Act.

*(ii) In respect of release sought under clause (a),
(b) and for emergent sufficient cause within clause
(d) of sub-Section 1 of Section 3, the State Governments shall
issue necessary instructions for considerations of the request
of parole expeditiously and preferably by delegating such
powers of the State Governments to District Magistrates or any
other officer, it considers appropriate.*

*(iii) The authorities concerned shall consider the request for
temporary release on parole or furlough and decline the same
only on the grounds mentioned under Section 6 of the Act. Any
mechanical rejection of request for release on parole or
furlough such as for breach of apprehension of peace is not
warranted by law. The competent authority shall pass
reasoned and speaking order, whenever it is to decline request
for temporary release specifying endanger to the security of
the State or of public order. With the said directions, the
petition stands disposed of."*

It is thus submitted that while declining the request for parole
no speaking order has been passed.

In view of the submissions made above, the order dated
29.09.2017 passed by the District Magistrate, is hereby quashed and it is
directed that the case of releasing the petitioner on six weeks parole will be
reconsidered by the respondent-authorities within a period of four weeks
from the date of receipt of copy of this order in the light of judgment of this
Court in Criminal Writ Petition No. 2459 of 2011.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

10.11.2017
Hemlata

Whether speaking/reasoned	Yes / No
Whether reportable	Yes / No