

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Writ Petition 1510 of 2016

Date of Decision : January 15, 2018

Gurmeet Singh @ Kunda

....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : Mr. Anterpreet Singh, Advocate
for the petitioner.

Mr. I.P.S. Doabia, Additional Advocate General, Punjab.

Mr. Inderpreet Singh, Advocate for
Mr. J.S. Mehndiratta, Advocate
for the complainant.

T.P.S. MANN, J.

Convict-Gurmeet Singh @ Kunda has filed the present petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure praying for issuance of directions to the respondents to release him on temporary parole for six weeks under Section 3(1)(d) of the Punjab Good Conduct (Prisoners) Temporary Release Act, 1962.

According to the petitioner, he stands convicted in FIR No.43 dated 23.4.2010 registered at Police Station Badhni Kalan, District Moga for committing offences under Sections 302/307/379/148/149 IPC and Section 25 of the Arms Act and sentenced to undergo imprisonment for life. Against his conviction and sentence, he has filed the appeal, which stands admitted. He is in custody since 23.4.2010. In the month of April, 2016, he applied for temporary parole for a period of six weeks to visit his house and to meet his old parents. His application for parole was marked

by the Jail Superintendent to the Senior Superintendent of Police, Moga. On 9.9.2016, the Superintendent of Police, Moga submitted his report to the District Magistrate, Moga, as per which he did not recommend the release of the petitioner on parole as he already stood involved in 9/10 other criminal cases. On the basis of the said report, the District Magistrate, Moga declined his release on parole.

According to the petitioner, the order passed by the District Magistrate is totally against the provisions of law and facts of the case. No other case under Section 302 IPC is pending against him. There were four other criminal cases in which he already stands acquitted. He further pleaded that the petitioner wants to meet his old parents, who due to their old age have become sick and there is none in his family to look after them. No one in the village has any objection to the release of the petitioner on parole. In this regard, he has referred to the Panchayatnama (Annexure P-2). Pleading that his co-convict Jaswinder Singh has twice been released on parole, the petitioner be also granted the same concession.

The petition came up for preliminary hearing before a Division Bench of this Court on 23.11.2016 when the Court noticed on going through the order dated 3.10.2016 (Annexure P-1) passed by the District Magistrate that there were 9/10 cases registered against the petitioner at different Police Stations. However, learned counsel for the petitioner submitted that only four FIRs other than the present case stood registered against the petitioner in which he had since been acquitted. He, however, prayed for some time to place on record the copies of the orders acquitting the petitioner in those four cases. On the adjourned date,

learned counsel for the petitioner placed on record the order dated 27.9.2011 (Annexure P-3), order dated 5.4.2011 (Annexure P-4) and order dated 20.5.2014 (Annexure P-5). The petitioner still insisted that only three other cases stood registered against him in which he has already been acquitted. Accordingly, notice was issued.

Upon notice, learned State counsel filed reply by way of affidavit of Shri Parveen Kumar Thind, IAS, District Magistrate, Moga, wherein it was stated that the Senior Superintendent of Police, Moga vide memo dated 9.9.2016 had reported that 9/10 cases had been registered against the petitioner in different Police Stations. Further, Senior Superintendent of Police, Moga had also reported that there was apprehension of the petitioner absconding and he could also kill the family of Kuldip Singh complainant. Thus, there was danger to security of the State and maintenance of law and order. Accordingly, as the Senior Superintendent of Police, Moga did not recommend the parole of the petitioner, his prayer for parole had been rightly rejected. It has further been mentioned that fresh report from Senior Superintendent of Police, Moga regarding cases registered against the petitioner had been obtained. The Senior Superintendent of Police Moga has reported vide memo dated 6.1.2017 in which he reiterated that there was danger to security of the State and maintenance of law and order situation. With these observations, Senior Superintendent of Police, Moga did not recommend the release of the petitioner on parole. However, vide memo dated 9.1.2017, Senior Superintendent of Police, Moga sent list (Annexure R-III) of cases which stood registered against the petitioner. The said list contained numbers of nine FIRs, including the present case. Out of the

nine cases, he stood acquitted in five of them. In two cases, including the present case, he stood convicted, whereas he is still facing trial in two more cases.

Having heard learned counsel for the parties and on going through the pleadings, this Court finds that the petitioner is a member of dangerous gangsters. This fact is stated by the Senior Superintendent of Police, Moga in memo dated 9.9.2016 (Annexure R-1). Further, he stood involved in nine cases in all. In five of them, he stood acquitted. In two of them, he stands acquitted whereas he is facing trial in two more cases. While passing the impugned order (Annexure-P1), the District Magistrate had also referred to the report of the Senior Superintendent of Police, Moga to the effect that Kuldip Singh, the complainant in the present case, whose brother was killed by the petitioner, had submitted an affidavit mentioning therein that the petitioner was extending threats to him even while inside jail to kill his family. There was also an apprehension of the petitioner absconding if released on parole due to which there would be danger to the State security as well as maintenance of law and order.

In view of the above, no case is made out for granting the relief of parole to the petitioner.

The petition is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

January 15, 2018
satish

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO