

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

CRWP No. 1314 of 2017 (O&M)

Date of decision: 17.1.2018

Harpreet Singh

.. Petitioner

vs

The State of Punjab and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice B. S. Walia**

Present: Mr. A. S. Trikha, Advocate, for the petitioner.

Mr. Vikas Mohan Gupta, Additional Advocate General, Punjab.

Rajesh Bindal, J.

The petitioner has filed the present writ petition with the following prayer:-

“The Criminal Writ Petition U/A 226 of Constitution of India praying to issue Notice of Motion or any Direction or any appropriate Writ to respondents to quash the impugn order placed as at Annexure P-1 contending that convict when released on parole from 5/5/16 to 17/6/16 for 42 days did neither inform nor marked attendance at police station nor was available at home because he has association with criminals. But he returned jail peacefully without any FIR lodged against him at the police station. Hon. Court shall note that there are neither such instruction prescribed in the Form under Rule 3 nor any such order was recorded on the release warrant.

When he came on furlough for 21 days on 9-9-16, he did neither inform nor marked attended at the police station. He can join other criminals and jump over parole.

Temporary Release u/s 3 & 4 is allowed on good conduct subject to execution of bonds under according to Parole Act 2015. Purpose of parole is defeated when he is required to attend the police station. More so the convict is not required inform the police station and marked the attendance at the police station under Rule 3. It is for the sanctioning Authority to inform the police station to keep surveillance on him and surrender him jail without warrant in case of danger to peace and danger to State.

The Sarpanch and two other panches of the gram panchayat has certified that he is acquitted in all FIRs except 199 dated 3.10.2009 u/s 302/34 IPC and has ensured vide Annexure P-2 that there will be no danger to public peace and security of State on his release for 6 weeks parole in the village and also he will return jail on expiry of period of parole. More so, apprehension of breach of peace and jumping over parole and joining other criminals is not covered u/s 6 of the Pb. Parole Act 2015. The neighbourer Harpal Singh has taken responsibility of his peaceful stay on parole and surrender in jail after expiry of parole in time vide annexure P-3.

Consequently, when there is no FIR pending against him and the Sarpanch and two panches takes his responsibility of peaceful stay and surrender in time then he should be allowed parole to meet the family u/s 3(1)(d) of The Punjab Good Conduct Prisoners (Temporary Release) Amendment Act, 2015 subject to satisfaction of District Magistrate, Ludhiana.”

The petition has been styled as 'Criminal Writ Petition'.

The High Court has framed Writ Jurisdiction (Punjab and Haryana) Rules, 1976, which is forming part of Punjab and Haryana High Court Rules and Orders, Volume-5, Chapter-R, Part-F. Rule-3 thereof provides for Criminal Writ Petitions, which reads as under:-

“3. Criminal Writ Petitions.- A petition for the issuance of a writ in the nature of habeas corpus or any petition challenging order of punishment passed in pursuance to any proceedings before a Court Martial or its equivalent tribunal shall be styled as 'Criminal Writ Petition'.”

A perusal of the aforesaid Rule shows that a Criminal Writ Petition can be filed in the nature of habeas corpus or any petition challenging order of punishment passed in pursuance to any proceedings before a Court Martial or its equivalent tribunal. The relief claimed in the present petition does not fall in any of the categories prescribed in the rule.

Hence, the Criminal Writ Petition for the relief claimed is not maintainable.

Dismissed.

However, it will not bar the petitioner to avail appropriate remedy in accordance with law.

(Rajesh Bindal)
Judge

17.1.2018
vs

(B. S. Walia)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No