

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

CRWP No. 1340 of 2017 (O&M)

Date of decision: 16.1.2018

Amit Kumar

.. Petitioner

vs

State of Punjab and others

.. Respondents

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

Present: None 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:-

“a) that by filing Criminal Writ Petition U/A 226 of Constitution of India to issue Notice of Motion or Direction or any appropriate Writ to respondents to set aside the impugned order placed as at, Annexure P-1, by directing the respondents to reconsider to allow parole to meet the ailing mother/ family to the petitioner Amit Kumar s/o Pardeep Kumar r/o Pardesi Mohalla, Calcutta Market, Doraha, Ludhiana which was withheld on inconsistent and unsubstantiated police reports by calling him naughty, gangster, met not at home, preparing an other crime when there is no case against him except the one in which he is undergoing life imprisonment in Central Jail, Ludhiana.

b) That the petitioner has addressed one letter to this Hon. Court placed as at annexure P-2 and panchayatnama as at annexure P-3 to justify their availing 3 paroles

peacefully and surrendering in jail in time. The police has sent a letter in jail calling him naughty, gangster and preparing to commit another crime without qualifying with competitive explanations and the Superintendent jail has stopped the parole of the petitioner which is irrational and not covered within the domain of section 6 of the Punjab Parole Amendment Act 2015.

Consequently, as he has committed no jail offence for the last over 8 years and his conduct inside the jail is satisfactory so he is lawfully entitle to 6 weeks parole to meet his family and take care for his ailing wife 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

16.1.2018
vs

(B. S. Walia)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No