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

CWP-13428-2018 (O&M)
Date of decision : 6.12.2018

Sarabjit Kaur

..... Petitioner

Versus

State of Punjab and ors

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Charanpreet Singh, Advocate for
Mr. S.S. Rana, Advocate for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Petitioner seeks issuance of a writ in the nature of certiorari for quashing of the order dated 24.4.2018 (Annexure P-1), passed by Additional Deputy Commissioner, SBS Nagar and further for issuance of writ in the nature of mandamus, directing the respondents to grant six weeks parole to the petitioner under Section 3(1) (C) and (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962.

Heard.

It comes out that petitioner has been convicted and sentenced to undergo rigorous imprisonment under Sections 21 and 22 of the Narcotic Drugs Psychotropic Substances Act, 1985, (for short 'the NDPS Act') registered at Police Station Sadar Banga to undergo rigorous imprisonment for a period of 10 years under Sections 21 and 22 of the NDPS Act and to

pay a fine of Rs. 1.00 lac and in default of payment of fine to further undergo rigorous imprisonment for one year by learned Additional Sessions Judge, SBS Nagar on 13.11.2017. She was convicted for being found in possession of 260 grams of intoxicant powder and 50 grams heroin.

Petitioner seeks parole to meet her family members and also for her medical treatment on account of black cataract disease and kidney stone problem.

Separate replies have been filed on behalf of respondents No. 1, 2 and 4 and respondent No. 3. In the replies, respondents have made the reference to the registration of 10 cases in which the petitioner was found involved. The State has taken the plea that the petitioner has the history of selling intoxicant substance. Therefore, if she is released on parole, she is likely to misuse the same and indulge in anti social activities and breach the peace and security of the State.

A perusal of the impugned order dated 24.4.2018 (Annexure P-1) shows that Additional Deputy Commissioner, SBS Nagar has taken into consideration the 10 other cases registered against the petitioner which are mentioned in the order. A perusal of the said order shows that petitioner was acquitted in 03 cases and in 05 cases, she was convicted and has either undergone sentence or undergoing sentence. The authority has taken the view that the convict is habitual in selling intoxicant substance and there is also an apprehension of breach of maintenance of public peace and law and order, if she is released on parole.

I am of the view that for the offences she has committed, she is either convicted, sentenced, undergone or undergoing sentence. Earlier

also petitioner was released on parole for two days for the purpose of marriage of her daughter and she returned on time.

Learned State counsel has informed the Court that she has already undergone 03 years of sentence and her appeal before this Court is also pending. Therefore, even her conviction in the present case is yet to be finally decided by this Court.

I am of the view that for meeting the apprehension of the State that the petitioner can indulge in selling of intoxicant substance, adequate conditions can be imposed and her conduct can be kept under watch.

Learned counsel for the petitioner has relied upon an authority of Division Bench of this Court *Harinder Singh @ Bhura versus State of Haryana and others, 2017 (2) RCR (Criminal) 106*, wherein it is held that parole cannot be refused on the ground that the convict is a criminal type of person.

Considering the entirety of the facts, I am of the view that one chance should be given to the petitioner by keeping her conduct under watch.

As such, impugned order dated 24.4.2018 (Annexure P-1), passed by Additional Deputy Commissioner, SBS Nagar is hereby quashed.

In view of above, present petition is allowed and the petitioner is ordered to be released on parole for a period of four weeks to meet her family members and get herself treated on her furnishing surety before the District Magistrate, SBS Nagar to the satisfaction of the conditions as mentioned below: -

- (1) The petitioner shall not indulge in selling of intoxicants or narcotic drugs and will not commit any crime.
- (2) She will also report before the Station House Officer, Banga, SBS Nagar on every Monday at 10. A.M. The Station House Officer, Banga, SBS Nagar shall record her presence.

In case petitioner breaches any of the terms and conditions as recorded above, parole order shall stands cancelled and petitioner will be taken into custody for undergoing remaining part of the sentence.

(KULDIP SINGH)
JUDGE

6.12.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No