

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

*CWP No.1389 of 2018
Date of Decision: 23.01.2018*

Yashpal

. . . . Petitioner

Vs.

State of Punjab and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.Saransh Sabharwal, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner is seeking parole for 6 weeks, suffering life imprisonment in a case registered vide FIR No.37 dated 22.2.2014 under Sections 302 & 193 of the Indian Penal Code, 1860 [for short 'the IPC'] at Police Station Kotwali, District Patiala.

The allegation against the petitioner is that he has killed his own daughter. In the aforesaid FIR, the petitioner was tried and convicted for the offence committed under Section 302 of the IPC and has been sentenced to undergo life imprisonment and is presently confined in Central Jail, Patiala. He has also filed a Criminal Appeal bearing CRA-D-351-DB of 2016 in this Court against his conviction and sentence.

The parole has been declined by the SSP, Patiala vide his order dated 26.07.2016, observing that the address on which the petitioner has applied for parole has been closed having been burnt. The wife of the

petitioner is working in the Cooperative Bank and has shifted from that place along with her son. It is also observed that the petitioner has committed the murder of his 17 years old daughter and he is a man of aggressive nature who could hurt his wife and son also while on parole.

Learned counsel for the petitioner has submitted that the reason for seeking parole is to meet his sister who is living abroad. However, it is submitted that the sister of the petitioner has not come to India so far as she would make her program only after the petitioner is granted parole. It is further submitted that now efforts are being made to provide conducive environment to the prisoners so that they may mend their ways and become good citizen. It is also submitted that the continuous incarceration would put an adverse impact on the psyche of the petitioner.

I have heard learned counsel for the petitioner and perused the record.

The grant of parole is governed by the provisions of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 [for short 'the Act']. The word 'Prisoner' is defined in Section 2(d) of the Act, which means a person confined in prison under a sentence of imprisonment whereas the word 'Hardcore Prisoner' is defined in Section 2(aa) of the Act which means a person confined in prison under a sentence of imprisonment, who has been convicted of (i) an offence of rape with murder under section 376 read with section 302 of the Indian Penal Code, 1860; (ii) an offence punishable under section 14 of the Protection of Children from Sexual Offences Act, 2012. The petitioner has prayed for his release on parole in terms of Section 3 of the Act, which read as under: -

“3. Temporary release of prisoners on certain grounds.-

(1) The State Government may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2) any prisoner if the State Government is satisfied that –

(a) a member of the prisoner’s family has died; or

(aa) husband or wife or son or daughter or father or mother or brother or sister or grand-father or grand-mother or grandson or grand-daughter or father-in-law or mother-in-law of the prisoner is seriously ill; or”;

(b) the marriage of the prisoner's son or daughter is to be celebrated; or

(c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land

or any other land cultivated by him and no friend of the prisoner or a member of the prisoner's family is prepared to help him in this behalf in his absence; or

"(cc) a lady prisoner is pregnant and is likely to deliver a child; or";

(d) it is desirable so to do for any other sufficient cause.

"Explanation.- The expression "sufficient cause" includes-

(1) serious damage to life or property of the member of the family caused by any natural calamity; or

(2) critical condition of any member of the family on account of accident; or

(3) delivery of child by the wife of the prisoner.";

(2) The period for which a prisoner may be released shall be determined by the State Government so as not to exceed –

(a) where the prisoner is to be released on the ground specified in clause (a) of sub-section (1), fifteen days;

(b) where the prisoner is to be released on the ground specified in clause (aa) or

clause (b) or clause (c) or clause (d) of sub-section (1), six weeks; and

(c) where the prisoner is to be released on the ground specified in clause (cc) of sub-section (1), one hundred and twenty days (sixty days prior to the date of delivery of child and sixty days after the date of delivery of child)

(2-A) The total period of temporary release of the prisoner, excluding the temporary release availed of on the death of family member of the prisoner and the temporary release availed of by a female prisoner on account of delivery of child, shall not exceed twelve weeks during a calendar year and shall be availed of on quarterly basis:

Providing that any prisoner who is on temporary release for a specified period and wants to surrender to jail before the expiry of his temporary release period, he shall be allowed to do so;

(3) The period of release under this section shall not count towards the total period of the sentence of a prisoner.

(4) The State Government may by notification authorise any officer to exercise

*its power under this section in respect of all
or any of the grounds specified therein.”*

The petitioner is asking for parole to meet his sister, who is not in India and may or may not come to meet his brother. Even if she intends to come to India to meet the petitioner, it is not one of the grounds even provided under Section 3 of the Act for the purpose of release on parole. Moreover, the address given by the petitioner for the purpose of his residence is no more available to him because the said house is found to be closed having been burnt. The SSP, Patiala has specifically observed in his order that the petitioner is a man of aggressive nature because he had committed murder of his 17 year old daughter and may also cause any kind of hurt to his wife and son, therefore, the application filed by the petitioner to the SSP, Patiala is dismissed.

After hearing learned counsel for the petitioner and keeping in view the aforesaid facts, am of the considered opinion that the petitioner does not deserve concession of parole.

Dismissed.

23.01.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No