

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

CWP-16700-2018 (O&M)

Date of decision : 7.12.2018

Sukhjit Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. B.D. Sharma, Advocate for the petitioner.

Ms. Sunint Kaur, 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)

This is a petition filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside of the impugned order dated 06.04.2018 (Annexure P-3) passed by respondent No. 2-District Magistrate, Amritsar.

Heard.

It comes out that petitioner was convicted for the offence under Sections 21/22 of the Narcotic Drugs Psychotropic Substances Act, 1985 vide judgment dated 9.8.2016 passed by learned Judge, Special Court, Amritsar and sentenced to undergo rigorous imprisonment for a period of 10 years in addition to fine. Petitioner is stated to be in custody since the time of his arrest.

Learned counsel for the petitioner submits that mother of the petitioner has moved an application dated 16.10.2017 before the District Magistrate, Amritsar seeking parole for his son to meet his family and repair of the house. But no decision on the said application has been taken so far. Father of the petitioner has died on 13.08.2017.

Earlier the petitioner approached this Court by filing CRWP-1304-2017 titled as '*Sukhjit Singh versus State of Punjab and others*' which was disposed of by this Court on 8.11.2017 with a direction to decide the application moved by the petitioner within 10 weeks. Now the application has been considered and impugned order dated 6.4.2018 (Annexure P-3) has been passed.

In the reply, State has taken the plea that petitioner was convicted under the NDPS Act and there is still apprehension that if the petitioner is released on parole, he may indulge in similar activities of smuggling of narcotic substance. He can abscond which would endanger the security of the State and would also disturb the public order. The State has relied upon the report of Commissioner of Police, Amritsar dated 9.9.2017 (Annexure R-3/T).

It comes out that petitioner was arrested on 23.5.2014 and has undergone actual sentence of 4 ½ years. Appeal is pending before this Court which is yet to be decided. Parole of the petitioner has been declined on account of the report submitted by Police Station Sultanwind City Amritsar. As per the reply of the State, State has the apprehension that petitioner may indulge in narcotic trade and will abscond. However, the reply, does not disclose that the petitioner has committed any jail offence for the last 4 ½

years or indulged in any illegal activity inside jail. Therefore, apparently, the conduct of the petitioner in jail is good.

It being so, apprehension of the State regarding that the petitioner may indulge in narcotic trade or absconding is imaginary. Therefore, impugned order dated 06.04.2018 (Annexure P-3) passed by respondent No. 2-District Magistrate, Amritsar is quashed. Respondents are directed to release the petitioner for parole for six weeks to meet his family and also for repair of the house on furnishing surety to the satisfaction of the District Magistrate, Amritsar.

In view of above, petition stands allowed.

(KULDIP SINGH)
JUDGE

7.12.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No