

CWP No.2261 of 2018 (O&M)

[1]

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

**CWP No.2261 of 2018 (O&M)
Date of decision:17.04.2018**

Simrandeep Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sanjeev Sharma, Advocate,
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

Rakesh Kumar Jain, J.

The petitioner is a life convict, lodged in the Central Jail, Ludhiana, has applied for 6 weeks' parole which has not been recommended by the Deputy Commissioner of Police, Ludhiana vide its letter dated 03.07.2017, addressed to the District Magistrate, Ludhiana, on the ground that there is an apprehension of danger to the local law/State security if he is granted parole. The District Magistrate, Ludhiana, in turn, vide his letter dated 14.07.2017, addressed to the Commissioner of Police, Ludhiana, had asked for a reasoned report specifying the nature of danger to the State security or public order while releasing the petitioner on parole.

It appears that the petitioner did not receive any communication regarding acceptance or rejection of his application for grant of parole and while treating the letter dated 03.07.2017 of the Deputy Commissioner of Police, Ludhiana, not recommending the grant of parole to the District

Magistrate, Ludhiana, as the impugned order/letter, filed the CRWP No.1268 of 2017 on 24.10.2017. In the said petition, notice was issued to the Advocate General, Punjab for seeking report from the District Magistrate, Ludhiana regarding any specific material available against the petitioner indicative of the fact that his release on parole would endanger the State security or peace and harmony (public order).

No reply to the said petition was filed till today and on 23.01.2018. The Division Bench was of the view that the Criminal Writ Petition is not maintainable for seeking parole as the grievance made by the petitioner can only be redressed by way of filing a Civil Writ Petition, therefore, the Registry was directed to register the CRWP No.1268 of 2017 as a Civil Writ Petition and list the same as per roster. Accordingly, the present petition was assigned CWP No.2261 of 2018 and listed before the Single Bench of this Court, as per roster.

Learned State counsel, in order to defend the impugned letter/order, has submitted that the reason for not recommending the release of the petitioner, on parole was that there would be a danger to the local law and the State security.

Counsel for the petitioner has submitted that there is no material with the respondents on the basis of which such apprehension can be entertained by the law enforcing agency and has also submitted that the District Magistrate, Ludhiana, vide his letter dated 14.07.2017, has also asked for a specific reasoned report as to how the Department of Police is coming to the conclusion that if the petitioner is released on parole, then there would be a danger to the State security. In support of his submissions, he has relied upon

the following judgments:-

- 1) **Rajmal vs. State of Haryana and ors.**, 1989(1) R.C.R. (Criminal) 95;
- 2) **Chhaju vs. State of Haryana and anr.**, 1988(1) R.C.R. (Criminal) 38;
- 3) **Nazir vs. State of Punjab and anr.**, 1987(2) R.C.R. (Criminal) 243; and
- 4) **Lachhman Dass vs. State of Punjab**, 1988(1) R.C.R. (Criminal) 101.

I have heard learned counsel for the parties and examined the available record with their able assistance.

There is no doubt that the application of the petitioner for grant of parole has not been rejected by the District Magistrate, Ludhiana, and the petitioner has filed this petition only against the letter/order dated 03.07.2017, which is merely a recommendation by the Deputy Commissioner of Police, Ludhiana to the District Magistrate, Ludhiana for not granting parole to the petitioner on the ground that his release would cause danger to the local law/State security.

There is also no doubt that the District Magistrate, Ludhiana had asked the Commissioner of Police, Ludhiana to give a specific reasoned report about the apprehension being entertained by the Department of Police about the petitioner posing a threat to the local law/State security on being released on parole.

In the judgments relied upon by counsel for the petitioner, dealing with the issue of releasing the convict on parole, it has been consistently

observed by this Court that there has to be material with the respondents for entertaining the apprehension that if the said convict is released on parole, then he would cause a danger to the public peace.

Similar is the view expressed by the District Magistrate, Ludhiana, when he had asked the Commissioner of Police, Ludhiana, for a specific reasoned report as to how the petitioner would be a threat to the society on his being released on parole for a period of six weeks.

Thus, keeping in view the aforesaid facts and circumstances, I am of the considered opinion that the issue involved in this petition is still premature as there is nothing brought on record from the office of the District Magistrate, Ludhiana as to whether the prayer made by the petitioner has been rejected on the basis of the specific reasoned report submitted by the Department of Police.

Consequently, the present petition is hereby disposed of with a direction to the District Magistrate, Ludhiana (respondent no.3 herein) to look into this matter thoroughly and pass appropriate orders in accordance with law within a period of one month from the date of receipt of certified copy of this order.

Registry is directed to send a certified copy of this order to the District Magistrate, Ludhiana, for the purpose of compliance.

April 17, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No