

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

**CWP- 26426 -2018 (O&M)
Date of decision: 05.12.2018**

Sumit Kumar

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Vishal Khatri, Advocate for the petitioner
Mr.Sunint Kaur, AAG Punjab

- 1. Whether Reporters of Local newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Petitioner has invoked the writ jurisdiction of this Court under Articles 226/227 of Constitution of India for issuing the writ in the nature of certiorari quashing impugned order dated 3.8.2018 (Annexure P-4), passed by District Magistrate, Amritsar under Section 3 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, vide which, parole of six weeks to the petitioner to meet his family members has been declined on the ground that there may be threat to the security of State and maintenance of public order, if the petitioner is released on parole.

Reply has been filed in the Court by State. The same is taken on record.

It comes out that earlier also, same order dated 18.10.2017 was passed by the District Magistrate, Amritsar, vide which, parole was declined on the ground of security of State and maintenance of law and order.

Against the said order, the petitioner approached this court by way of CWP No.8036 of 2018. The said order was quashed by this Court vide judgment dated 25.4.2018. The State was directed to re-consider the case of the petitioner. Now, the case has been re-considered and on the same ground, parole has been again rejected.

It comes out that the petitioner has been convicted under Section 21 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 vide judgment of conviction and order of sentence dated 8.12.2016 passed by learned Judge, Special Court, Amritsar and sentenced to undergo ten years imprisonment along with fine in FIR No.34 dated 3.9.2013 registered at Police Station Airport, Amritsar.

Now, the question would arise as to whether parole can be declined on the ground that there 'may be threat to the security of the State and maintenance of public law and order?'

Matter has already been considered and settled by this Court vide order dated 25.4.2018 passed in CWP No.8036 of 2018 and the order of declining the parole was quashed.

I am of the view that it is mere apprehension of the District Magistrate that there may be a threat to the security of the State and maintenance of public order. There is no tangible evidence to support the said apprehension. The said ground has already been considered and decided against the State of Punjab.

The petitioner is not booked in any other case nor any material has been produced on record that his activities before his conviction or after conviction, are threat to the security of the State and maintenance of public order.

It being so, impugned order dated 3.8.2018 (Annexure P-4), passed by the District Magistrate, Amritsar is hereby quashed. Petitioner is ordered to be released on parole for a period of four weeks to meet his family members subject to furnishing surety bonds to the satisfaction of District Magistrate, Amritsar. After the expiry of the said parole, the petitioner shall surrender at the jail gate.

Petition is allowed accordingly.

05.12.2018

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No