

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

CWP No.3208 of 2018
Date of Decision: 19.07.2018

Gursewak Singh

. Petitioner

Vs.

State of Punjab and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Ms.Bhupinder Pal Kaur Brar, Advocate,
for the petitioner.

Ms.Diya Sodhi, AAG, Punjab.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the order dated 18.10.2017 passed by the District Magistrate, Faridkot by which the application filed by him for parole has been declined.

In brief, the petitioner is in Modern/District Jail, Faridkot, undergoing life sentence, in a case registered vide FIR No.24 dated 7.3.2015 under Sections 306/202/201/34 IPC at Police Station Kotakpura, District Faridkot. He applied for parole for repair of his house which was recommended by the jail authorities to the District Magistrate. The District Magistrate sought the report from SSP, Faridkot. The enquiry was conducted by the DSP (Investigations) who had submitted in his report that the petitioner has given threats to Kuldeep Kaur, her grandson and grand-daughter because an application was filed by Kuldeep Kaur, who was also joined in the enquiry. It is also reported by DSP (Investigation) that on

a secret enquiry, it has been found that if the petitioner is released on parole then on his coming to village Daggo Romana, there is a likelihood of breach of peace in the village as he may cause damage to the life and property of the complainant Kuldeep Kaur etc. On the basis of the report, the District Magistrate declined to release the petitioner on parole and as such his application was rejected.

Learned counsel for the petitioner has referred to a decision of this Court rendered in the case of *“Baljit Singh Vs. State of Punjab and others” 2017 (2) Law Herald 1796* to contend that the benefit of parole cannot be denied on the reason assigned in the impugned order.

On the other hand, learned counsel for the respondents has submitted that Section 6(ii) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1988 [for short ‘the Act’] specifically provides that *“no prisoner shall be entitled to be released under this Act, if on the report of the District Magistrate, where consultation with him is necessary, the State Government or an officer authorized by it in this behalf is satisfied that his release is likely to endanger the security of the State or maintenance of public order”*. It is further submitted that in the case of ***Baljit Singh (Supra)*** relied upon by the petitioner, the police report was that the petitioner in that case may jump parole in one report and that his presence in area is unwarranted for society and it may cause disturbance of law and order in area. It is submitted that the Court has held that the question of jumping of parole can be secured by asking heavy surety but in regard to disturbance of law and order as distinguished from danger to security of State and maintenance of public order are entirely different. It is also submitted that in

the said case, it has been held that *“One act may affect some individuals and local persons while another though of a similar nature may impact the public at large. An act which disturbs the even tempo of life of the public at large affects the maintenance of public order. These aspects are to be considered by the competent authorities under Act while deciding to recommend or not to recommend the temporary release of a prisoner on parole and / or passing orders for temporary release by the competent authorities under the Act. The exercise is not to be lightly conducted and the competent authorities are to apply their mind on the basis of inputs received by them for recommending or passing an order as the case may be for temporary release of prisoners on parole”*. It is further submitted that the prayer made by the petitioner for release on parole has been declined after an enquiry has been conducted by the SSP through the DSP (Investigation) in which he has reported that the release of the petitioner on parole and his presence in the village is likely to endanger the life and property of the complainant not only to whom the petitioner has already given a threat to eliminate.

I have heard learned counsel for the parties and perused the available record.

The ratio of the law laid down in the case of ***Baljit Singh (Supra)*** is that while passing the order of declining the request for grant of parole, the competent authority should not have acted lightly and was to apply mind on the basis of the inputs received. In the present case, the decision given by the District Magistrate is on the basis of the report of the DSP (Investigation), who has categorically opined that the petitioner has extended threat to the complainant and in case he is released on parole and

allowed to come to the same village then there may be a breach of peace much less loss of life and property of the complainant party.

Thus in view thereof, I do not find any reason to interfere in this petition and hence the same is hereby dismissed.

19.07.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*