

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

CWP No.4097 of 2018
Date of Decision: 01.06.2018

Jaswinder Singh @ Kaka

..... Petitioner

Vs.

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Ms.Satinder Kaur, Advocate, for the petitioner.

Mr.H.S. Sitta, AAG, Punjab.

RAKESH KUMAR JAIN, J. (O&M)

The petitioner has been convicted for 14 years in FIR No.119 dated 06.10.2013, for 10 years in FIR No.91 dated 12.7.2012 both registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [for short 'the NDPS Act'] and is presently lodged in the District Central Jail, Faridkot.

The petitioner had applied for parole under the provisions of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 [for short 'the Act'] which was declined by the District Magistrate, Moga vide order dated 6.10.2017 on the ground that the case of recovery of commercial quantity of poppy husk was registered against him and in case the parole is granted to him then he would again involve in the same trade in heavy quantity and it was apprehended that he may abscond as well. It was also observed that the property of the petitioner is being verified and action is being taken under Section 68 of the Act but if he is granted parole he can alter his property.

In the reply filed by the respondents, it is observed that the petitioner cannot be granted parole in terms of Section 6(2) of the Act wherein it is provided 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 any 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”*.

Learned counsel for the petitioner has relied upon a Division Bench decision of this Court rendered in the case of *“Bansi Lal Vs. State of Punjab and others”* 2016(4) RCR (Criminal) 1017. It is submitted that the question of releasing the petitioner and causing danger to the security of the State or maintenance of public order has to be considered in the decision making process which is the requirement of Section 6(2) of the Act as also Rule 3(2) of the Punjab Good Conduct Prisoners (Temporary Release) Rules, 1963 [for short ‘the Rules’]. He has also relied upon another Division Bench decision of this Court rendered in *CRWP No.706 of 2016* titled as *“Jassa Singh alias Jassa Vs. State of Punjab”* decided on 31.10.2017 to contend that there should be material on record to conclude that the release of the convict on parole would cause threat to the security of the State or public order.

On the other hand, learned counsel for the respondents has submitted that the petitioner had applied for parole in which the order has been passed on 06.10.2017. However, no such order has been passed after the application has been filed by the wife of the petitioner for seeking his parole on 7.2.2018.

In view of the above, the present petition is hereby disposed of

parole and decide the same as early as possible preferably within a period of four weeks from the date of receipt of certified copy of this order. In case, the petitioner is declined parole, in terms of Section 6(2) of the Act read with Rule 3(2) of the Rules, specific observations should be made in the order based upon the material before the competent authority.

01.06.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes

Whether Reportable : Yes/No