

CWP No.6556 of 2018 -1-

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

**CWP No.6556 of 2018
Date of decision: July 17, 2018**

Uttam Kumar @ Deepu

...Petitioner

Versus

State of Punjab and others

...Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr.Antarpreet Singh, Advocate for the petitioner.

Ms.Sunint Kaur, AAG Punjab.

Rakesh Kumar Jain, J. (Oral)

The petitioner has prayed for parole in terms of Section 3(1)(d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short 'the Act') to meet his family members.

The petitioner is in Central Jail, Ludhiana suffering 10 years sentence for an offence committed under Section 395 IPC. He is not a previous convict nor there is any allegation against him of any jail offence. His application has been turned down by the respondents only on the ground that since the petitioner has been involved in a case registered under Section 395 IPC, therefore, he may cause breach of law and order on coming out of jail.

Counsel for the petitioner has submitted that in the reply filed by the respondents, it is categorically mentioned by them that the petitioner if released on parole, would not disturb public law and order but on an apprehension that he may cause breach of law and order only because of the reason that he had been convicted and sentenced under Section 395 IPC, benefit of parole has been denied. It is further submitted that petitioner is in

custody since 5.8.2015 and has not been released on parole so far.

Counsel for the respondent has referred to Section 6(2) of the Act to contend that the respondent has jurisdiction to pass the order declining parole on the ground of apprehension of breach of law and order.

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

Section 6(2) of the Act says that “No prisoner shall be entitled to be released under this Act, if, on the report of the District Magistrate, the State Govt. or an officer authorised by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of Public order.” Insofar as the security of the State is concerned, the respondents have themselves observed that in case the petitioner is released on bail, public law and order would not be disturbed but at the same time, it is also observed that since he has been convicted under Section 395 IPC, therefore, there can be breach of law and order. The Division Bench of this Court in the case of ***Bansi Lal Vs. State of Punjab and others 2016(4) RCR (Criminal) 1017*** has observed that the term 'Security of the State' out of the expressions of law and order and public order is considered more grave. It may arise from within or outside the State. It is generally understood as an act of aggression from outside or militant and terrorists operations engineered by foreign agencies. It can also be effected by passing of classified information like documents, secrets, maps etc. to foreign countries or through undesirable foreign links. It is also observed therein that the District Magistrate must have reasons before him to observe that releasing the petitioner/convict would cause breach of law and order whereas in the present case, there is no material but for an impression in the mind of the respondents that since the petitioner has been convicted under

Section 395 IPC, therefore, there could be breach of law and peace.

In view of the aforesaid, I do not agree with the stand taken by the respondents as it is total presumptory and without any basis. Therefore, the present petition is hereby allowed and the petitioner is directed to be released on parole for two weeks to meet his family members subject to his furnishing bail bonds to the satisfaction of District Magistrate, Ludhiana who would impose the usual conditions in the order of bail/release.

July 17, 2018
Meenu

(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned	:	Yes/No
Whether reportable	:	Yes/No