

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

CWP No.7557 of 2018
Date of Decision:07.09.2018

Gurdeep Singh @ Kaka

. Petitioner

Vs.

The State of Punjab and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.A.S. Trikha, Advocate,
for the petitioner.

Ms.Lavanya Paul, AAG, Punjab.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the order of the District Magistrate dated 28.6.2017 by which the prayer made by the petitioner for releasing him on parole for six weeks to meet his family members has been declined.

In brief, the petitioner is lodged in Central Jail, Ludhiana on account of his conviction in a case registered vide FIR No.73 dated 10.5.2014 under Sections 21/22/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [for short 'the NDPS Act'] at Police Station Rahon, District S.B.S. Nagar in which he has been sentenced for 10 years rigorous imprisonment. He has applied for parole under Section 3(d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 [for short 'the Act'] for a period of six weeks to meet his family members. He appended no objection certificate issued of the Panchayat for his release on parole but his application has been declined by the impugned order dated 28.6.2017 on the ground that in case the petitioner is released on parole, he

would again indulge in the same trade of selling intoxicants which is against the maintenance of public order. The respondents have referred to Section 6(ii) of the Act in this regard.

After notice, separate replies have been filed by respondent Nos.1 &2 and 1 & 3. In the reply filed by respondent Nos.1 & 2, which is by way of an affidavit of the Superintendent, Central Jail, Ludhiana, it is averred that besides the FIR No.73 dated 10.5.2014 in which the petitioner has been convicted on 19.10.2015 and has been sentenced to undergo imprisonment for ten year, the petitioner has been convicted and sentenced for one year on 7.10.2015 in a case registered vide FIR No.2 dated 01.01.2014 registered under Section 21 of the NDPS Act at Police Station Rahon, District S.B.S. Nagar and similarly in a case registered vide FIR No.52 dated 26.5.2015 under Section 21 of the NDPS Act at Police Station Rahon, District S.B.S. Nagar he has been convicted for a period of 10 years on 30.3.2017.

In the reply filed by respondents No.1 & 3, by way of an affidavit of DSP, Nawanshahar, District SBS Nagar, it is averred that FIR No.2 dated 1.1.2014 under Section 21 of the NDPS Act at Police Station Rahon, District S.B.S. Nagar was registered against the petitioner when he was found in possession of 60 gram heroin for which he was convicted on 03.06.2015 but during trial he was on bail and during the said period of bail he again involved in the drug peddling inasmuch as he was found in possession of 100 gram heroin and 300 gram intoxicant power and accordingly FIR No.73 dated 10.5.2014 under Section 21 of the NDPS Act was registered against him and he was convicted in that case on 19.10.2015 but when he was on parole in both the aforesaid cases, he again involved in

intoxicant powder for which FIR No.52 dated 26.5.2015 was lodged against him at Police Station Rahon, District S.B.S. Nagar in which he was finally convicted on 30.3.2017.

Besides this, in the impugned order, there is a reference of FIR No.43 dated 5.06.2005 registered under Sections 4/5 of the Excise Act and under Sections 21/61/85 of the NDPS Act and FIR No.9 dated 1.1.2014 registered under Sections 21/61/85 of the NDPS Act.

Learned counsel for the petitioner has submitted that it is not a case where the petitioner can be declined parole in terms of Section 6(ii) of the Act whereas learned counsel for the respondent/State has submitted that the petitioner is not entitled to be released on parole under the Act on the ground of maintenance of public order which might include the drug free society which is allegedly rampant in the State of Punjab because of such type of drug peddlers who have no remorse for their past conduct and are continuously indulging in drug peddling.

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

Since there is no rejoinder to the reply filed by way of affidavit of Mukhtiar Singh, PPS, Deputy Superintendent of Police, Nawanshahar, therefore, this Court shall have to take into consideration the fact that the petitioner had been indulging in drug peddling whenever he was released on parole in a pending cases filed against him which are apparently 5 in number and are under the NDPS Act.

In view of the above, I am of the considered opinion that there is an apparent apprehension in the mind of the respondents that as soon as he would be released on parole, he would again indulge in such type of activities which is against the maintenance of public order keeping in view

the present state of affairs in the State of Punjab which is strenuously grabbing with the menace of drug abuse.

Thus in view thereof, I do not find any merit in the present petition and the same is hereby dismissed.

07.09.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No