

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

CWP No. 860 of 2019

Date of Decision: 10.09.2019

Sajid Hussain

...Petitioner

Vs.

U.T. Chandigarh and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. K.B.S. Sidhu, Advocate
for the petitioner.

Mr. Rajiv Sharma, APP, UT, Chandigarh.

RAJIV NARAIN RAINA, J. (Oral)

1. Through this petition, the petitioner has sought a writ in the nature of certiorari for quashing the order dated 25.09.2018 (P-1) passed by respondent No.2 whereby benefit of parole to the petitioner has been denied so also it is prayed that a writ of mandamus be issued directing the respondents to grant the benefit of parole to the petitioner for a period of four weeks to meet his family members.

3. The petitioner was convicted and sentenced for murder of his wife to undergo rigorous imprisonment for 20 years under Sections 302 IPC in case FIR No.232 dated 01.08.2015 registered at Police Station, Industrial Area, Chandigarh. Criminal appeal filed by the petitioner is pending in this Court.

4. The request of the petitioner for grant of parole to meet his family members has been rejected by the impugned order dated 25.09.2018 (P-1)

only on the basis of the report of the District Magistrate, Muradabad (U.P.).

This Court vide interim order dated 08.07.2019 quashed the impugned order dated 25.09.2018 with liberty to respondents to pass a fresh speaking order and place the same before this Court for consideration.

5. The respondents again rejected the request of the petitioner by passing a fresh order dated 17.08.2019. When the case came up for hearing on 19.08.2019, learned counsel argued that the petitioner has two daughters, the elder one is handicapped and petitioner's father is about 77 years old. There is no one to look after them so the petitioner be released to take care of them. Then this Court passed a detailed order on 19.08.2019 as under:-

"In compliance of the previous interim order, a fresh order has been passed by the Inspector General of Prisons, UT, Chandigarh on 17.08.2019 declining the request for parole for the reason that District Magistrate, Muradabad, UP has submitted report to deny grant of parole. The Police Authorities at Muradabad have raised an apprehension that if convict is released on parole, then he may sell his moveable and immovable property and can escape during parole. The report also states that he may influence witnesses if released on parole. The order dated 17.08.2019 is ordered to be taken on record.

However, this Court feels that the issue, whether he is likely to endanger security of the State or maintenance of public order, is not properly discussed by the Inspector General of Prisons in his order, which is normally a hallmark of orders expected to be passed in this jurisdiction. He has gone entirely by the view taken by the Muradabad Administration. However, it is not clear as to the extent and nature of the handicap of one of the daughters of the petitioner, who is convicted and sentenced for murdering his wife. As far as sale of moveable and immovable property is concerned, there can be a restraint order by this Court in case parole applicable has to be allowed that any device of transfer would stand nullified and ab initio void. Such an order if passed can be sent to the Sub Registrar/Registering Authority, Muradabad, UP to take care of apprehension of the authorities at Muradabad regarding sale of moveable and immoveable property.

There is nothing in the order on record to suggest that the daughters are inimical towards the petitioner on account of death of their mother and that they do not want to do anything with their father. In absence of such report from the Muradabad Authorities, it is difficult to say whether the reasons attributed should hold water. The petitioner does not appear to fall within the definition of 'Hardcore Prisoner'. Learned counsel for the petitioner to satisfy

this Court as to the extent of handicap of the petitioner's daughter as well as the physical and mental health of the family of the petitioner including his parents and their status in the society.

List again on 10.09.2019."

6. Heard Mr. K.B.S.Sidhu and Mr. Rajiv Sharma, learned counsel for the parties. I am not convinced with the arguments of the learned counsel for the petitioner. On the other hand, the District Magistrate, Muradabad vide his reports dated 16.08.2018 and 13.08.2019 has not recommended the parole case of the petitioner on both occasions. The District Magistrate has gone by the opinion of the Senior Superintendent of Police, Muradabad (U.P.) and while agreeing with him has declined the application for temporary release of the petitioner.

4. Having heard learned counsel for the petitioner, I am of the view that no ground for interference is made out. There is no illegality or infirmity in the impugned order dated 25.09.2018 (P-1) as well as order dated 17.08.2019 passed by respondent No.2.

5. Dismissed accordingly.

(RAJIV NARAIN RAINA)
JUDGE

10.09.2019

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