

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

**CWP No.2487 of 2019 (O&M)
Date of decision: March 28, 2019**

Jaswinder Singh @ Kaka

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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

Mr. Karanbir Singh, AAG, Punjab.

HARINDER SINGH SIDHU, J.

This petition has been filed praying for directions to the respondents to release the petitioner on parole.

The petitioner is undergoing imprisonment for 14 years in case FIR No.119 dated 06.10.2013 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Nahianwala, District Bathinda and imprisonment for 10 years in case FIR No.91 dated 12.07.2012 under Section 15 NDPS Act, Police Station Baghapurana, District Moga.

The petitioner submitted an application to the Superintendent, Central Jail, Faridkot for grant of parole to meet his family members, which was not allowed. He filed CWP No.4097 of 2018, wherein, this Court vide order dated 01.06.2018 directed the respondents to consider the case of the petitioner for parole and decide the same as early as possible preferably within a period of four

Weeks In another writ petition, the respondents were again directed to consider

his case on a fresh application. It is stated that till date the case of the petitioner has not been decided.

In the reply, it is stated that the petitioner was shifted to Central Jail Bathinda from Modern Jail, Faridkot on 31.01.2019. The parole application of the petitioner has been rejected by the District Magistrate, Moga vide order dated 12.3.2019. The impugned order states that the Deputy Superintendent of Police, Baghapurana reported that according to secret information it was found that the petitioner has relations with negative social elements. In the cases in which he has been convicted there was heavy recovery of poppy husk from the petitioner. He can again smuggle the drugs of heavy quantity after coordination with the negative elements of other States. He may also jump parole and may abscond after coming out on parole. General public may be terrified and public order may be disturbed. The Senior Superintendent of Police, Moga reported that the petitioner's property is being verified and action has been taken under Section 68 of the NDPS Act against him. If the petitioner comes out on parole, he may make changes in the property records. The SSP also reported that various other cases have been registered against the petitioner.

The impugned order declining parole to the petitioner cannot sustain.

As regards the ground that there would be danger to security of State and maintenance of public order if the petitioner is released all that needs to be said is that no material in support thereof has been brought on record by the respondents. It has been held by a Division Bench of this Court in **Jassa Singh Vs. State of Punjab** 2016(1) Law Herald 587 that for reaching the satisfaction of danger to the security of the State or maintenance of public order there has to be

material before the competent authority for arriving at that conclusion. Parole cannot be denied on mere generalization.

It has been held by Division Bench of this Court in **Ram Chander Vs. State of Punjab and others 2017(3) RCR(CrI) 340** that likelihood of committing a crime while on parole would not be a sufficient ground to deny temporary release on parole as merely likelihood of committing a crime is not to be taken as apprehension of a threat to the security of the State or maintenance of public order.

Temporary Release Acts envisage temporary release of convicts. Mere fact that a person is convicted for an offence does not mean that he will abscond if he is released on parole. As held by a Division Bench of this Court in **Baljit Singh Vs. State of Punjab 2017(2) Law Herald 1796** if the State has any apprehension that the convict will jump parole it can always impose adequate conditions including asking for heavy surety.

Accordingly, this petition is allowed. The impugned order is set aside. The respondents are directed to release the petitioner on parole for a period of three weeks subject to his furnishing bond/ surety to the satisfaction of the District Magistrate/ Competent Authority. Further, in the facts of the case, the parole shall be subject to the following additional terms and conditions:-

- (i) The petitioner shall furnish a telephone number to the Station House Officer of the Police Station within whose jurisdiction the petitioner would be staying during the parole period;
- (ii) The petitioner would also furnish an undertaking and surety to the effect that he will not indulge in any illegal activity in relation to drugs and intoxicants.

(iii)He shall also undertake that he shall not transfer, lease, mortgage, create any charge or incumbrance, alienate or in any other manner dispose of his properties.

(iv)In the event of violation of any of the above three conditions, the permission regarding parole would cease to exist forthwith.

In addition to the above, it would be open to the State Authorities to maintain constant vigil on the conduct of the petitioner so that he does not indulge in any illegal activity.

March 28, 2019

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No