

**CWP-7285-2019**

**[1]**

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

**CWP No.7285 of 2019 (O&M)  
Date of decision: March 26, 2019**

**Balwinder Singh**

**...Petitioner**

**Vs.**

**State of Punjab and Others**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Fariad Singh Virk, Advocate for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

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**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 12 years imprisonment in case FIR No.337 dated 9.6.2006 under Section 15 of the NDPS Act, 1985, Police Station Patran, District Patiala consequent upon his conviction in the said case vide judgment dated 17.12.2008. CRA-D-155-DB of 2009 filed by him against the said judgment was dismissed vide judgment and order dated 24.01.2014.

It is stated that the petitioner is a cancer patient. The petitioner was released on parole for a period of 6 weeks from 18.08.2017 to 30.09.2017. Thereafter, vide order dated 7.11.2017 in CRWP No.1105 of 2017 keeping in view his health his parole was extended till 31.12.2017. But the condition of the petitioner has worsened. He was admitted in Amar Hospital, Patiala on 12.12.2017 where his whole body PET-CT study was done and thereafter on

advised repeat evaluation after 3 months to assess his feasibility for surgery. The petitioner sought further extension of parole by filling CWP No.5375 of 2018. His parole was extended first till 12.03.2018 and then till 7.5.2018. Thereafter due to non appearance of the counsel for the petitioner, the case was adjourned on more than one occasion. As the petitioner had failed to surrender before the jail authorities on the expiry of his parole i.e on 07.05.2018 without any order of extension of parole, vide order dated 11.12.2018 he was directed to surrender before the concerned Jail Authorities. The petition was disposed of as infructuous. The petitioner surrendered himself on 12.12.2018 before the Superintendent, Central Jail, Patiala.

Learned counsel for the petitioner contended that condition of the petitioner has not improved despite the treatment from different hospitals. He has been taking treatment from private hospital and has to go for check-up twice a week i.e Monday and Thursday. A copy of the PET-CT study and medical certificate issued by Amar Hospital, Patiala is annexed as P-2 and P-3 respectively. Copy of the medical documents of Departments of Gastroenterology, Histopathology, Radiodiagnosis & Imaging of the Post Graduate Institute of Medical Education and Research (PGIMER) Chandigarh has been annexed as P-5 (colly). Antenatal Card of Civil Hospital, Bahadurgarh (Jhajjar) is placed on record as Annexure P-2. He prays that the petitioner be released on parole for a period of 6 months so as to get the necessary treatment which is required by a cancer patient.

In the reply filed by the Deputy Superintendent, Central Jail, Patiala it is stated that the petitioner has been convicted in three different cases. Apart from

the present case in which he is undergoing the sentence of 12 years, he was also

convicted and sentenced to undergo 10 years rigorous imprisonment in case FIR No.294 dated 23.6.2007 under Sections 15,16,85 of the NDPS Act, Police Station Sadar Patiala, District Patiala. He was also convicted and sentenced to undergo six months rigorous imprisonment in case FIR No.26 under Section 52-A of the Prisons Act, Police Station Tripuri, District Patiala.

Annexure R-1 enclosed with the reply is a copy of the communication dated 25.3.2019 sent by the Senior Medical Officer to the Superintendent Central Jail, Patiala that the petitioner has been diagnosed with metastasis and chronic diabetes mellitus and has been complaining of having abdominal pain radiating towards the back with a decrease in the intake of diet and generalized weakness. He was sent to Rajindera Hospital Patiala from where he was referred to PGIMER Chandigarh and was admitted there from 16.03.2019 to 19.03.2019. Test were done which indicated that he had anaemia as well. He has been advised small frequent diets and other medication. He also requires nursing which cannot be provided at Central Jail as compared to a tertiary care hospital. He has also been called for follow up in Oncology department next week. The communication further mentions that Endoscopy is scheduled for the next Wednesday (*i.e.* 3.4.2019).

As per custody certificate (Annexure R-2), the petitioner has already undergone 09 years 07 months and 10 days as on 19.3.2019. Though, the petitioner had overstayed his parole period after 07.05.2018, but it is not disputed that he surrendered on 12.12.2018, the very next day after the disposal of the writ petition filed by him. The petitioner has explained that he had been continuously taking treatment for cancer and was not aware about the non-extension of his

It is clear that the petitioner requires constant care and nursing which cannot be provided at Central Jail. He needs treatment at a tertiary care hospital.

The petitioner has approached this Court directly for extension without filing an application before the Jail authority. Ordinarily in such a case the petition would have been disposed of with a direction to the petitioner to move an appropriate application before the competent Authority with a direction to the respondents to consider the same expeditiously in the light of his medical condition, explained above.

However in the facts of this case considering the critical condition of condition of the petitioner who needs constant nursing care which cannot be provided at Central Jail, this petition is allowed. It is directed that the petitioner be released on parole for six weeks subject to his furnishing surety bonds to the satisfaction of the District Magistrate/competent authority concerned.

March 26, 2019

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**( HARINDER SINGH SIDHU )  
JUDGE**

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|-----------------------------|----------|
| Whether Speaking / Reasoned | Yes      |
| Whether Reportable          | Yes / No |