

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 9527 of 2019

Date of Decision: 11.09.2019

Gurdev Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

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

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Ms. Anu Pal, DAG Punjab.

RAJIV NARAIN RAINA, J. (Oral)

1. The statement Annex. R-4 attached with the written statement is an incorrect version of the photocopy of the text of the vernacular. The case of the petitioner has not been presently rejected (although earlier rejected on 30.11.2018) but photocopy of the original vernacular reads in translation that the case has not been recommended to the Senior Superintendent of Police, Kapurthala. But in the translation it reads the opposite. This is not a fair thing for the State to have done. It should have been more careful in presentation of material documents. The Senior Superintendent of Police is not a proper authority to reject the parole case when the power lies with the District Magistrate. Besides, the vernacular reveals that request is still pending due to imposition of election code in the General Elections which ended at the end of May 2019. Therefore, the order dated 12.09.2019, as

rightly pointed out by the learned State counsel was passed without the attention of the Court being drawn to the vernacular by treating the case as one which was freshly rejected and that since the fresh order has been passed, it is recorded that the petitioner seeks time to challenge the order and wants to amend the present petition.

2. Mr. Pandit explains that the order was passed just before the Bench rose and since the State had referred to an incorrect translation of the vernacular (Annex. R-4), the order was passed when counsel was not aware of the facts and annexures in the reply filed in the Court on the same day and there was no time left to react or read the papers and the words of the State were trusted. Therefore, the order dated 12.09.2019 is not to be read against the petitioner and his challenge to the impugned order is still open for consideration.

3. Keeping in mind the order dated 24.05.2019 (Annex. R-4) recording that the request remains pending even after the elections have been declared, the better course in the first instance would be to direct the respondent authority to decide the application within 21 days as per time bound instructions of the Director General, Prisons, Haryana in the case of District Magistrate, counted from the date of receipt of the certified copy of this order. In such consideration, the authority/District Magistrate will pay due regard to the fact that all the 9 co-convicts, who were co-accused, have been granted parole from time to time and one Subhash Chander was denied parole. He challenged the rejection of

parole in a petition presented to this Court in CRWP No. 18050 of 2018, titled Subhash Chander Vs. State of Punjab and others decided on 15.11.2018 and 06 weeks' parole was granted to Subhash Chander. The order is attached with the writ petition as Annex. P-9.

4. The conduct of the petitioner in jail is not reported to be unsatisfactory. There is not another criminal case against the petitioner. He has been a Chairman of the Market Committee, Dhilwan, District Kapurthala and is unlikely to abscond or misuse the benefit. Mere apprehension is not enough in law.

5. The authorities will consider these aspects and pass a reasoned order complying with the law of parole in the judgment of the Supreme Court rendered in the case of Asfaq v. State of Rajasthan and others; AIR 2017 SC 4986.

6. The order when passed in the time allotted be communicated to the petitioner forthwith.

7. With the directions above, the petition is disposed of.

(RAJIV NARAIN RAINA)
JUDGE

11.09.2019

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