

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 21.08.2019****CWP No.12730 of 2019**

Sarabjit Kaur

...Petitioner

Vs.

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Charanpreet Singh, Advocate, for the petitioner.

Ms. Simran Grewal, AAG, Punjab.

RAJIV NARAIN RAINA, J. (ORAL)

1. The prayer in the present petition is for issuance of a writ in the nature of mandamus directing the respondents to release the petitioner on parole by setting aside the order dated 11.04.2019 (Annex P-1), whereby her request for parole for 23 days to meet her children and to make necessary arrangements for their livelihood has been declined.

2. The petitioner was convicted and sentenced by the Additional Sessions Judge, Bhiwani to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.1 Lac under Sections 21 & 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 in case FIR No.24 dated 13.03.2015 registered at Police Station Sadar Banga vide order dated 13.11.2017.

3. Reply on behalf of respondent No.4 has been filed in Court today and the same is taken on record. Learned Law Officer on the basis of

separate replies filed on behalf of respondents No.3 & 4 submits that the petitioner was involved in many criminal cases, details of which are given in para No.2 of the reply filed on behalf of respondent No.4. She further submits that the petitioner has a history of selling intoxicant substances and if she is released on parole, she is likely to misuse the concession and again indulge in anti social activities.

4. I have heard Mr. Charanpreet Singh and Ms. Simran Grewal on the petition.

5. A perusal of the details given in para 2 of the reply filed on behalf of respondent No.4 today reveals that in four cases, the petitioner was acquitted, while in the remaining cases she was convicted and has either undergone sentence or is on bail pending appeal. The apprehension of the State that she may indulge in selling of intoxicant substance is hypothetical. To allay the apprehension, adequate conditions can be imposed on her and her conduct can be kept under watch in case parole is granted. State in its reply does not say that there is apprehension that petitioner will abscond. It also states that there is no threat to the security of the State. The only ground taken is that she will again involve herself in selling intoxicant substances. The likelihood of involvement while on parole would not be a sufficient ground to decline temporary release on parole as mere likelihood of committing crime is not to be taken as active and real apprehension of a threat to the security of the State or to the maintenance of public order. It has not been reported that the conduct of the petitioner in jail is not satisfactory and her reports in the jail are not good. My view is that the benefit of temporary release by way of parole is admissible.

6. In view thereof, the petition is allowed and the impugned order dated 11.04.2019 (Annex P-1) is set aside. Petitioner is ordered to be released on parole for three weeks to meet her children and to make necessary arrangements for their livelihood on furnishing adequate surety to the satisfaction of the District Magistrate concerned. It shall be open to the State to impose adequate condition/s to ensure that the petitioner does not indulge in selling intoxicants or narcotic drugs during parole. On expiry of the period, the petitioner will surrender at the jail gates to serve her remaining sentence.

7. Petition stands allowed accordingly.

21.08.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
Yes/No