IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12796 of 2019 (O & M)
Date of Decision:24.09.2019

Amrik Singh ....petitioner

Versus

State of U.T.Chandigarh and others .....respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.Gurpreet Singh, Advocate
for the petitioner

Kr.Yashwant Singh Rathore, Addl.Public Prosecutor with
Ms.Sudha Singh, Advocate
for respondents-U.T.Administration

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RAJIV NARAIN RAINA, J. (ORAL):

1. Learned counsel for the U.T.Administration, Chandigarh, has filed additional affidavit of SHO Police Station, Maloya, in the Court today, which is taken on record.

2. Through this petition, the petitioner has sought for a writ in the nature of certiorari for quashing of the order dated 10.04.2019 (P-1) passed by respondent No.2 whereby benefit of parole to the petitioner has been denied so also for issuance of a writ in the nature of mandamus directing the respondents/State to grant the benefit of parole to the petitioner for a period of 28 days to meet his family.

3. The petitioner was convicted and sentenced to undergo rigorous imprisonment for 07 years under Sections 363,366,376 IPC and Section 4 of the POCSO Act, in case FIR No.254 dated 14.12.2017 registered at Police Station Maloya, Chandigarh.

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4. The U.T.Administration had been asked to file additional affidavit stating as to where the victim resides. In this affidavit, it is stated that the Balwinder Kaur-grand mother of the victim resides in House No.1826, DMC, Chandigarh and this house belongs to her uncle namely Maan Singh. Her husband is an alcoholic and lives elsewhere and due to this habit she has been residing with her uncle for the the last 12 years. The victim Amrit Kaur was residing with her grandmother in the said house. She is 17 years and 06 months old. After the registration of the case on 14.12.2017, Amrit Kaur has been residing in '*Ashiana'* under the care of Superintendent, Snehalaya for Girls, Sector 15, Chandigarh.

5. Learned counsel for the petitioner has referred to a Division Bench judgment of this Court in the case of "Bansi Lal vs. State of Punjab and others", 2016(4) RCR (Criminal) 1017. Learned counsel for the petitioner further submits that this is the first application for parole filed by the petitioner and he has undergone almost 21 months of actual sentence.

6. On the other hand, learned State counsel while opposing prayer made by the learned counsel for the petitioner argues that since the petitioner has committed a heinous crime of rape, therefore, benefit of parole should not be granted to him.

7. Perusal of the impugned order shows that the application of the petitioner has been rejected on the ground that the petitioner is involved in heinous crime and may violate the terms of parole and peace of area may be disturbed.

8. Having heard learned counsel for the parties, I am of the view that this is not a case in which parole should be denied to the petitioner. The only ground taken is that the petitioner is involved in a heinous crime & he

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may abscond. The likelihood of absconding 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 apprehension of a threat to the security of the State or the maintenance of public order.

9. The safety of the girl is assured in the custody of Snehalaya, which is the home run by the U.T.Administation, Chandigarh. The petitioner has prayed for 28 days parole to meet his family. He is married and having two children and is in his mid twenties. This is not a case where the security of the State is involved or there will be a disturbance of peace and law and order. There appears to be no bar in granting parole to the petitioner for 28 days.

10. In view of the above, the petition is allowed. The impugned order dated 10.04.2019 (P-1) is quashed. The petitioner is granted parole for 28 days from the date of release to the satisfaction of the District Magistrate concerned, who is further directed to impose such conditions as are required to secure the presence of the petitioner in jail after the period of parole, is over and done with.

24.09.2019 **(RAJIV NARAIN RAINA)**
neenu **JUDGE**

Whether speaking/reasoned Yes/No.
Whether reportable- Yes/No

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