

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

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**CWP No. 16406 of 2019
Date of Decision : 25.7.2019**

Gurmit Singh @ Gopi

.....Petitioner

v.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present : Mr. Vishal Khatri, Advocate, for the petitioner

Mr. Nikhil K. Chopra, Addl. AG, Punjab

KULDIP SINGH, J. (Oral)

The petitioner has impugned the order dated 2.4.2019 (Annexure P-5), passed by the Deputy Commissioner/District Magistrate, Tarn Taran, vide which his prayer for parole for treatment of his left leg and to socialize with his family, under Section 3 (1) (d) of Punjab Good Conduct Prisoner's (Temporary Release) Act, 1962 (in short 'the Act'), has been declined.

The petitioner was convicted under Sections 23 (C), 27 (A) and 29 of NDPS Act and sentenced to undergo rigorous imprisonment for 20 years by learned Additional Sessions Judge, Tarn Taran, vide judgment dated 19.8.2015.

The State vide the impugned order dated 2.4.2019 (Annexure P-5) has declined the parole on the ground that the petitioner can maintain contacts with smugglers if he is released on parole and this can lead threat to security. Keeping in view the general elections of 2019, the public order can also be disturbed.

The State has filed the reply in which pendency of 6 cases has been mentioned, out of which the petitioner has complete his sentence in one case, in another one case sentence has been suspended, in two cases he is on bail and in other two cases he has been acquitted.

I have heard learned counsel for the petitioner and the learned State counsel.

So far as the ground of general elections is concerned, the elections are over and the said ground is no more available to the State. Now the ground for consideration is that the petitioner can maintain contacts with the smugglers and that can lead threat to security.

I have gone through the record. The report of the Senior Superintendent of Police, Tarn Taran (Annexure P-3) shows that DSP, Bhikhi wind had reported that earlier the petitioner was released on parole for 6 weeks on the orders passed by this Court and after availing the said parole, he reported back to jail in time. This fact is not denied. That was about a year back. Now it cannot be said that there is change of circumstances and that the petitioner will maintain contacts with the smugglers. The petitioner had not committed any crime while on parole. Therefore, the said ground is just an apprehension of the State without any material on record.

As such, the impugned order dated 2.4.2019 (Annexure P-5) passed by the Deputy Commissioner/District Magistrate, Tarn Taran is hereby quashed. The petitioner is ordered to be released on parole for a period of 6 weeks under Section 3 (1) (d) of the Act for treatment of his left leg and to socialize with his family, on furnishing surety to the satisfaction of District Magistrate, Tarn Taran.

The petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

25.7.2019
Ashwani

Speaking/Reasoned : Yes/No
Reportable : Yes/No