

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 19526 of 2019
Date of Decision: 28.08.2019

Kulvir @ Kulbir 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. Simran Grewal, AAG, Punjab.

RAJIV NARAIN RAINA, J. (Oral)

1. Reply on behalf of the State of Punjab filed in Court is taken on record.
2. The present petition is filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the order dated 30.05.2019 (Annex. P-5) passed by the Deputy Commissioner-cum-District Magistrate, Kapurthala by which the case of the petitioner for grant of parole for a period of six weeks has been rejected.
3. This is petitioner's 1st parole application.
4. The petitioner was convicted and sentenced to undergo rigorous imprisonment for 07 years in FIR No. 180 dated 09.07.2015 under Sections 307, 186, 332, 353, 34 IPC and Section 177 of the Motor Vehicles Act registered at Police Station Shahkot, District Jalandhar. Other than conviction and sentence u/s 307 IPC for 07 years with the appeal pending in this Court, there were four FIRs against the petitioner, all under the

provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act'); details of which is as under:-

- (1) *FIR No. 23 dated 20.03.2004 u/s 18 of the NDPS Act registered at Police Station Cantt. Ferozepur, acquitted on 12.12.2005;*
- (2) *FIR No.24 dated 24.03.2004 u/s 15 of the NDPS Act registered at Police Station Lohian, District Jalandhar. Petitioner was declared P.O. but later on acquitted on 10.04.2019;*
- (3) *FIR No. 81 dated 29.05.2015 under Sections 15/18/21/22/29/61/85 of the NDPS Act, registered at Police Station, Sultanpur Lodhi. There is no recovery and petitioner is on regular bail vide order dated 11.12.2015 (P-8).*
- (4) *FIR No. 156 dated 17.12.2014 under Section 174-A of the IPC registered at P.S. Lohian, District Jalandhar, the petitioner was sentenced to imprisonment for a period of 05 months and 14 days vide order dated 15.10.2018 which was already undergone by him.*

5. Learned counsel for the petitioner submits that there was no bodily injury to the victim. However no comment is made since the appeal is pending. He had undergone 04 months under trial when he was granted bail and he is in custody since 20.03.2018 i.e. from the date of conviction and sentence.

6. Request of the petitioner for parole to meet his family members had been rejected by the Deputy Commissioner-cum-District Magistrate, Kapurthala by order dated 30.05.2019 on the ground that the petitioner is habitual of committing crimes and he may abscond during parole period. There is also a threat to the security of State and breach of peace. The District Magistrate has gone by the opinion of the Senior Superintendent of Police, Kapurthala and while agreeing with him has declined the application

for temporary release of the petitioner.

7. 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. There is no averment in the reply that while in jail, the petitioner committed any jail offence or any other offence and that his conduct in the jail was not upto the mark. In a number of cases, this Court held that mere apprehension of breach of peace is no ground to deny parole/furlough to a prisoner. The object of sentencing is not just to punish but also to reform. The purpose and object of granting parole/furlough is to enable an inmate to maintain continuity with his family life and deal with family matters.

8. In view of the above, the petition is allowed. The impugned order dated 30.05.2018 (P-5) is quashed. The petitioner is granted parole for three weeks from the date of release to the satisfaction of the District Magistrate concerned, who is further directed to impose such conditions as required to secure the presence of the petitioner in jail after the parole period, is over and done with.

(RAJIV NARAIN RAINA)
JUDGE

28.08.2019
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Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*