

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-19735-2019

Date of Decision:-20.08.2019.

Mohd. Iftkhar @ Kaka

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Kushaldeep S. Sandhu, Advocate for the petitioner.

Ms. Simran Grewal, AAG, Punjab.

RAJIV NARAIN RAINA, J. (Oral)

1.) Present petition has been filed under the provisions of Article 226/227 of the Constitution of India read with Section 3 (Parole) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 to issue a writ in the nature of *certiorari* for setting aside the order dated 29.05.2019 (Annexure P-2) passed by respondent No.2, whereby application for grant of parole to the petitioner has been rejected.

2.) The infirmity pointed out by this Court in the earlier case of the petitioner, namely, CWP-38266-2018 Mohd. Iftkhar @ Kakka Vs. State of Punjab and others decided on 05.02.2019 still continues to persist in the fresh order dated 29.05.2019 passed by the District Magistrate, Sangrur, addressed to the Deputy Superintendent, Sub Jail, Malerkotla in ostensible compliance of the orders of this Court. The only additional reason given in

the earlier order is that there are instructions of the Election Commission of India not to recommend release of convict on parole.

3.) In the previous litigation, the sole ground for denying the benefit of parole to the petitioner was that he may sell intoxicants during his parole due to which law and order problem will arise. But this ground has not been accepted by the Division Bench of this Court in **Ram Chander Vs. State of Punjab and others, 2017 (4) RCR (Criminal) 340** observing that 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 which constitute grounds on which parole can be denied.

4.) The present impugned order suffers from an error in approach in disregarding the judgment and order dated 05.02.2019 passed by this Court in the earlier writ petition filed by the petitioner.

5.) Accordingly, the petition is partly allowed; impugned order dated 29.05.2019 (Annexure P-2) is set aside and the District Magistrate, Sangrur is directed to pass a fresh order in accordance with law in the light of the orders of this Court mentioned above. The decision be taken within seven days from the date of receipt of a certified copy of this order.

(RAJIV NARAIN RAINA)
JUDGE

August 20, 2019.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.