

CWP-23848-2018

[1]

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

**CWP No.23848 of 2018 (O&M)
Date of decision: February 26, 2019**

Avtar Singh @ Tita

...Petitioner

Vs.

The State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. A.S.Trikha, Advocate
for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

HARINDER SINGH SIDHU, J.

This petition has been filed praying for directions to quash the order of the District Magistrate, Amritsar 2.4.2018 (Annexure P-1) whereby the application of the petitioner for release on parole has been rejected. It has also been prayed that the respondents be directed to release the petitioner on parole.

The petitioner is undergoing imprisonment for life in case FIR No.10 dated 18.1.2013 under Sections 302/460 IPC, Police Station Sadar, Tarn Taran, District Taran Taran after his conviction by the Trial Court.

The petitioner submitted an application to the Superintendent, Central Jail, Jalandhar for grant of parole, which was forwarded to the District Magistrate, Amritsar. A report was sought from Senior Superintendent of Police, Amritsar, who did not recommend parole case of the petitioner on the apprehension that if he is released on parole, he may abscond and may commit some other serious offence. It was also reported that there will be danger to security of the State and

maintenance of public order on his release. Based on this report, the District Magistrate, Amritsar rejected the request for parole.

The impugned order declining parole to the petitioner cannot sustain as the grounds mentioned therein are not made out in the facts of this case.

It has been held by Division Bench of this Court in **Ram Chander Vs. State of Punjab and others 2017(3) RCR(CrI) 340** that likelihood of committing a crime while on parole would not be a sufficient ground to deny temporary release on parole as merely likelihood of committing a crime is not to be taken as apprehension of a threat to the security of the State or maintenance of public order.

The ground that there is a possibility of the petitioner absconding or involving in other serious crime while released on parole, appears to be a mere apprehension in the mind of the Authority as no material has been referred to justify such apprehension. Temporary Release Acts envisage temporary release of convicts. Mere fact that a person is convicted for an offence does not mean that he will abscond if he is released on parole. As held by a Division Bench of this Court in **Baljit Singh Vs. State of Punjab 2017(2) Law Herald 1796** if the State has any apprehension that the convict will jump parole it can always impose adequate conditions including asking for heavy surety.

As regards the ground that there would be danger to security of State and maintenance of public order if the petitioner is released all that needs to be said is that no material in support thereof has been brought on record by the respondents. It has been held by a Division Bench of this Court in **Jassa Singh Vs. State of Punjab 2016(1) Law Herald 587** that for reaching the satisfaction of danger to the security of the State or maintenance of public order there has to be

material before the competent authority for arriving at that conclusion. Parole

cannot be denied on mere generalization. Accordingly this ground is also not made out.

Accordingly, this petition is allowed. The impugned order is set aside. The respondents are directed to release the petitioner on parole for a period of six weeks subject to his furnishing bond/ surety to the satisfaction of the District Magistrate/ Competent Authority. The petitioner shall surrender before the Jail authorities on the expiry of six weeks of his release.

February 26, 2019

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No