

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 24840-2018(O&M)

Date of decision: 09.04.2019

Balwinder Singh and another

.....Petitioners

versus

State of Punjab and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Nandan Jindal, Advocate for the petitioner
Mr.Sandeep S. Deol, DAG Punjab

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Learned counsel for the petitioner wishes to withdraw the present petition qua petitioner no.1 Balwinder Singh. Same is dismissed as withdrawn qua petitioner no.1 Balwinder Singh.

Learned counsel for the petitioner presses the present petition qua petitioner no.2 Balwant Singh. Petitioner no.2 Balwant Singh has sought quashing of order dated 23.7.2018 (Annexure P1) passed by respondent no.4 i.e. District Magistrate, Bathinda, vide which, his application for parole for agricultural purpose and to meet his family members was declined.

I have heard learned counsel for the parties and have also carefully gone through the file.

State has filed the reply. State has taken a stand that the

complainant's son has been murdered and they are having danger from the accused due to which there is apprehension of breach of peace at any point of time. Therefore, parole was rightly declined.

A perusal of the order shows that on the same grounds the parole was declined.

Learned counsel for the petitioner has produced on record a copy of the order dated 14.1.2019 passed by this Court in case of co-accused in CWP No.21392 of 2018 titled as Avtar Singh @ Tari vs. State of Punjab and others, vide which, parole was allowed after considering the same grounds. The relevant extract from the same are reproduced as under:-

Petitioner was convicted for offence under Section 302 IPC by learned Additional Sessions Judge, Bathinda, vide judgment dated 24.01.2017 (Annexure P-1) along with two other co-accused. Perusal of the impugned order dated 23.07.2018 (Annexure P-5) shows that parole has been declined on the ground that there is a risk of disturbance of peace. It is further stated that complainant party is also residing in Village Mehraj and young boy of the complainant was murdered who feels apprehension from the accused. I think the said apprehension can be met by imposing adequate conditions. In order to meet the family after one year of his imprisonment after conviction, the petitioner is otherwise entitled to parole under Section 3(1)(d) of the Punjab Good Conduct (Temporary Release) Act 1962. As such, the petition is allowed and four weeks' parole under Section 3(1)(d) of the Punjab Good Conduct (Temporary Release) Act 1962 to meet and look after his family, is granted on his furnishing surety bonds to the satisfaction of Duty Magistrate concerned, subject to the condition that the petitioner will not go within 500 meters of the house of the complainant and after expiry of the said parole without seeking any extension, he will surrender before the jail authorities.

It is stated that Avtar Singh @ Tari has surrendered before the jail authorities and there was no allegation of breach of peace against him.

Learned State counsel has argued that Model Code of Conduct is in operation and as per instructions of the Election Commission, the convict cannot be released on parole except in very exceptional case.

I am of the view that the agricultural operations are on and after 23.5.2019, agricultural operations will be over and the purpose of parole will be frustrated. Elections in Punjab are fixed for 19.5.2019. Therefore, petitioner no.2 Balwant Singh is ordered to be released on parole for a period of four weeks on furnishing adequate surety to the satisfaction of the District Magistrate concerned with a direction to surrender back in the jail before 19.5.2019.

Petition is allowed accordingly.

09.04.2019

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:

Yes

Whether Reportable:

No