

CWP-26451-2018

[1]

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

**CWP No.26451 of 2018 (O&M)
Date of decision: March 08, 2019**

Shalinder Kadian

...Petitioner

Vs.

Director General of Police and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Ravinder Singh Dhull, 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, Faridkot dated 4.9.2018 (Annexure P-4) 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.16 dated 1.2.2006 under Sections 302/34 IPC, Police Station City Muktsar, District Sri Muktsar Sahib after his conviction.

The petitioner submitted an application to the Superintendent, Central Jail, Faridkot on 2.6.2017 for grant of parole to meet his family members, which was recommended by the jail authorities. On the basis of the police report that in the event of release of the petitioner, there is possibility of apprehension of breach of peace, the District Magistrate rejected the request for parole.

order dated 7.5.2018 (Annexure P-2) directing him to file a fresh application for parole. He filed the application but as no decision was taken thereon he filed CWP No.19541 of 2018 for a direction to the respondents to take a decision on his application for parole. This petition was disposed of on 7.8.2018 (Annexure P-3). Thereafter, the impugned order has been passed.

Learned counsel for the petitioner has argued that the grounds for rejection are baseless. He stated that younger sister of the petitioner had died on 15.1.2015 and his mother died on 18.1.2017. On both the occasions he was not informed by the family. The petitioner's two sons are grown up and he wants to meet his family whom he has not met for about fourteen years.

Notice of motion was issued and reply by way of affidavit of Deputy Superintendent of Central Jail, Faridkot has been filed. It states that on the report submitted by District Magistrate, Rohtak (Haryana), the parole application of the petitioner was rejected on the ground that the petitioner is a criminal type of person and is related to Gang war and there is apprehension of breach of peace in village if released on parole.

The impugned order declining parole to the petitioner cannot sustain.

It has been held by Division Bench of this Court in **Ram Chander Vs. State of Punjab and others 2017(3) RCR(Cr) 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 involving in other serious crime if 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.

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 four 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 four weeks of his release.

March 08, 2019

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No