

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-29653-2018 (O&M)
Date of decision:22.01.2019

Pawandeep Singh

.....Petitioner

versus

State of Punjab and others

....Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. Vishal Khatri, Advocate for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

Kuldip Singh, J. (Oral)

The petitioner has approached this Court by filing the present Writ Petition under Article 226/227 of the Constitution of India for quashing of order dated 05.11.2018, passed by Dy. Commissioner, Tarn Taran (Annexure P-3), vide which his plea for parole to meet the family members and for repair of the house under Section 3(1)(d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, has been declined.

The petitioner was convicted under Section 21 of the Narcotic Drugs and Psychotropic Substances Act by learned Judge, Special Court, Amritsar vide order dated 05.10.2016 (Annexure P-1) and sentenced to undergo rigorous imprisonment of 12 years in addition to fine. Previously, the petitioner approached this Court by way of filing ***CWP-18316-2018 titled as Pawandeep Singh vs. State of Punjab and others***, which was decided by this Court vide order dated 26.10.2018 (Annexure P-2) with

direction to Deputy Commissioner, Tarn Taran to re-consider the same as the co-accused has already been granted benefit of parole. After reconsideration, Deputy Commissioner, Tarn Taran passed an order dated 05.11.2018 (Annexure P-3) stating that there is danger of absconding and one kilogram of heroin was recovered from the petitioner whereas, from his accused 07.250 kilogram heroin was recovered. Co-accused belongs to some other district.

Reply filed by the State shows that the State has an apprehension that if the petitioner is released on parole, he will again indulge in the smuggling of intoxicant and would abscond.

Petitioner was convicted by learned Additional Sessions Judge, Amritsar vide order dated 22.09.2014 which is more than four years back.

Learned counsel for the petitioner has placed on record copy of the order dated 01.11.2018, passed by this Court in CWP-6875-2018 in the case of co-accused/Lakhwinder Singh whose parole was declined on the same ground but order was set aside.

I am of the view that the plea of the state and the Deputy Commissioner, Tarn Taran, that the petitioner may indulge in smuggling or abscond, is mere apprehension which is not supported by tangible evidence on record. Since, the petitioner is neither involved in some other cases nor is a habitual smuggler, therefore, order dated 05.11.2018, passed by Deputy Commissioner, Tarn Taran (Annexure P-3) is not sustainable in the eyes of law and hereby quashed. Petitioner is ordered to be released on six weeks' parole to meet his family members on his furnishing surety to the

satisfaction of the District Magistrate, Tarn Taran.

Accordingly, petition is allowed.

(KULDIP SINGH)
JUDGE

22.01.2019
anju rani

Whether speaking/ reasoned:	Yes
Whether Reportable:	No