

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

CWP No.30735 of 2018 (O&M)

Date of decision: 13.02.2019

Gursahib Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Vishal Khatri, 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 Deputy Commissioner, Tarn Taran dated 9.11.2018 (Annexure P-2) 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 rigorous imprisonment for ten years in case FIR No.150 dated 23.6.2014 under Sections 21, 22, 29 NDPS Act, Police Station Sultanwind, Amritsar after his conviction by the learned Judge, Special Court, Amritsar.

The petitioner submitted an application to the Superintendent, Central Jail, Amritsar for grant of parole to meet his family members, which was forwarded to the Deputy Commissioner, Amritsar. Upon the receipt of the report of the Senior Superintendent of Police, Tarn Taran that the petitioner is having mischievous nature and if he is released on parole, he may abscond and can again

indulge in business of smuggling, the Deputy Commissioner, Amritsar rejected the request for parole.

Learned counsel for the petitioner has argued that the grounds for rejection are baseless. On earlier occasion also, the petitioner had availed the concession of parole by filing CRWP No.998 of 2017, which was allowed vide order dated 16.02.2018. He had surrendered on time. There is no complaint or allegation that he misused the concession of parole.

The impugned order declining parole to the petitioner cannot sustain as neither ground mentioned therein is 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. Moreover, on earlier occasion also the petitioner had surrendered in time after expiry of the parole period.

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.

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.

February 13, 2019
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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No