

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-32265 of 2018

Date of Decision: 30.08.2019

Satish Kumar

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present : Mr. Sandeep Verma, Advocate
for the petitioner.

Ms. Simran Grewal, A.A.G. Punjab

RAJIV NARAIN RAINA, J. (Oral)

1. Prayer in this petition is for a writ in the nature of certiorari for setting aside the impugned order dated 02.07.2019 (P-8) passed by the Director General of Police (Prisons) Punjab whereby request of the petitioner for release on parole for a period of six weeks has been declined; also order dated 13.09.2018 (P-1) passed by the District Magistrate, Faizabad(UP) whereby he has not recommended the case of the petitioner. Consequential prayer is for issuance of a writ in the nature of mandamus directing the respondents to grant the benefit of parole to the petitioner for a period of six weeks to enable him to meet his family members/relatives & to look after other family affairs.

2. The petitioner has been convicted and sentenced to undergo life imprisonment under Sections 302, 120-B, 396, 411 IPC in FIR No.56/2008, registered at Police Station Civil Lines, Amritsar. Criminal appeal against the said conviction order has been dismissed by this Court.

3. The petitioner is a resident of village Katte (Mirpur), District Faizabad (U.P.) and is presently lodged in Central Jail, Patiala. The application of the

petitioner for grant of parole was forwarded to the District Magistrate, Ayodhya (U.P.) for verification report. The District Magistrate, Ayodhya (UP) after considering the report of the Senior Superintendent of Police, Faizabad dated 31.08.2018 (P-4) has not recommended the case of the petitioner on the ground that the release of the petitioner on parole may be dangerous to security of State and maintenance of public order vide the impugned order dated 13.09.2018 (P-1). On the basis of the report of the District Magistrate, Ayodhya (U.P.) not recommending the case of the petitioner, the Director General of Prisons, Punjab vide order dated 02.07.2019 (P-8) has rejected the request of the petitioner.

4. Learned counsel for the petitioner argues that in its report dated 31.08.2018 (P-4), the Senior Superintendent of Police, Faizabad has not recorded that if the petitioner is released on parole there will be threat to law and order but only stated that *“there is apprehension that the convict may run away after being released on parole, which may disturb the public order”*.

5. In a number of cases, this Court held that mere apprehension of breach of peace is no ground to deny parole/furlough to a prisoner. The apprehension must be real and expressed in writing. The object of sentencing is not just to punish but also to reform. The purpose and object of granting parole/furlough is to enable an inmate to maintain continuity with his family life and deal with family matters.

6. Further, learned counsel submits that two of the co-accused have already been granted parole by this Court in the months of May and September, 2017 and they had surrendered within time. The petitioner is in custody from the year 2009 and his period of incarceration is more than 9 years. The petitioner has not availed the benefit of parole earlier and this is his first application.

7. On the other hand, learned State counsel submits that the case of the

petitioner has not been recommended by the concerned District Magistrate, Faizabad. However, she admits that the conduct of the petitioner in jail is satisfactory and his reports in the jail are good. Respondent No.2 in its order dated 02.07.2019 has not reported that there is apprehension of the State of Punjab that the petitioner will abscond. He rejected the request only applying the report of the District Magistrate, Faizabad. Gram Panchayat of Village Katte (Mirpur), District Faizabad (U.P.) has also recommended the case of the petitioner certifying that there is no apprehension of breach of peace if he is released on parole, proof of which opinion has been placed on record as Annex P-2.

8. Purpose of parole and furlough is to provide some sympathetic approach towards those who are lodged in jails. The main purpose of such provision is to afford some time to the prisoners to solve their family problems and to enable them to make their links with civil society. The legitimate right of such prisoners should be considered and accorded. In this regard, reliance is placed on the observations in the judgment of the Supreme Court rendered in the case of *Asfaq v. State of Rajasthan and others*; AIR 2017 SC 4986.

9. Having regard to the fact that two co-accused have already been granted the benefit of parole and mere apprehension that the petitioner may run away from the law and become a fugitive is not to be taken as apprehension or a threat to the security of the State or the maintenance of public order and also taking into account the satisfactory conduct of the petitioner in jail, it is deemed appropriate to grant the benefit of parole to the petitioner for a period of four weeks.

10. In view of the above, the petition is allowed. The impugned orders dated 13.09.2018 (P-1) and 02.07.2019 (P-8) passed by respondents No.4 & 2 respectively are quashed. The petitioner is granted parole for four weeks from the

date of release to the satisfaction of the District Magistrate concerned, who is further directed to impose such conditions as may be required in the Jail Manual toward the ends of securing the presence of the petitioner in jail after the period of parole, is over and done with and the temporary release is not misused.

11. Ordered accordingly.

30.08.2019
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No