

CWP No.29173 of 2018

[1]

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

CWP No.29173 of 2018

Date of decision: 08.02.2019

Gurmit Singh @ Kala

....Petitioner

Vs.

State of Punjab and Others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr.Harchand Singh Batth, Advocate
for the petitioner.

Mr.Ramesh Kumar Ambavta, AAG, Haryana.

HARINDER SINGH SIDHU, J.

This petition has been filed praying for directions to quash the order of the Deputy Commissioner dated 17.11.2017 (Annexure P-3) 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 12 years in case FIR No.103 dated 14.09.2013 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Chola Sahib, District Taran Taran after his conviction by the learned Judge, Special Court, Amritsar.

The petitioner filed an application for release on parole for meeting his family. Relying on the report of the Senior Superintendent of Police dated 31.10.2017 in which it was stated that there is apprehension of absconding of the prisoner during his release on parole and also that there is apprehension to security of state and maintenance of public order due to his release on parole, the Deputy Commissioner rejected the parole of the

petitioner.

The aforesaid order cannot sustain as neither ground mentioned for rejection of parole is made out in the facts of this case.

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.

As regards the ground that there would be danger to security of State and maintenance of public order if the petitioner is released all that needs to be said is that no material in support thereof has been brought on record by the respondents. It has been held by a Division Bench of this Court in **Jassa Singh Vs. State of Punjab** 2016(1) Law Herald 587 that for reaching the satisfaction of danger to the security of the State or maintenance of public order there has to be material before the competent authority for arriving at that conclusion. Parole cannot be denied on mere generalization. Accordingly this ground is also not made out.

Accordingly, this petition is allowed. The impugned order is set aside. The respondents are directed to re-consider the case of the petitioner for release on parole in view of the above observations. The exercise be carried out and necessary orders passed within a period of three weeks from the date of receipt of a certified copy of this order.

February 08, 2019

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No