

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-W-855-2020 in/and
CRWP No. 1914-2020
Date of Decision: 11th August, 2020

Bikram Singh alias Rinku

....Petitioner

VERSUS

State of Punjab and others

....Respondents

**CORAM: JUSTICE S. MURALIDHAR
JUSTICE AVNEESH JHINGAN**

Present: Mrs. Anupam Bhanot, Advocate for the Petitioner.

Mr. H.S. Grewal, Additional Advocate General, Punjab.

Dr. S. Muralidhar, J.

CRM-W-855-2020

1. This is an application praying for advancing the hearing of the main petition (CRWP-1914-2020) for grant of parole.

2. For the reasons stated therein, the application is allowed. With the consent of the learned counsel for the parties, the main petition (CRWP-1914-2020) seeking parole is taken up for hearing today itself.

CRWP-1914-2020

3. The challenge in the writ petition is to an order dated 6th February, 2020 passed by the Respondent No. 2 declining the Petitioner's application for parole for 8 weeks as well as a report dated 7th December, 2019 of the Office of Commissioner of Police, Amritsar City, based on which the above order dated 6th February, 2020 was passed.

4. It must be mentioned here that pursuant to the Petitioner's conviction for the offences under Sections 21 and 22 of the Narcotics Drugs and Psychotropic Substances Act, 1985 by a judgment dated 14th March, 2017 of the Special Court, Amritsar he was sentenced to rigorous imprisonment for 12 years with a fine of Rs. 1,00,000/- and, in default, a sentence of 1 year. The

Petitioner has as of 10th September, 2020 undergone a period of 3 years, 4 months and 15 days in custody subsequent to his conviction in the aforesaid FIR No. 85/2013.

5. This is the third round of litigation. Initially the Petitioner filed an application dated 23rd February, 2018 seeking parole which was declined. The order declining parole gave only one reason, viz. that if parole is granted to the Petitioner, he may cause threat to the state security, maintenance of public order and “may also indulge in the same trade”.

6. Aggrieved by the rejection of the aforesaid application, the Petitioner filed CWP-8993-2018, which came to be allowed by this Court by an order dated 8th August, 2018. This Court observed that the Petitioner was a first-time offender and had not repeated the offence and that the denial of parole to him was based on a “mere apprehension”. The Court found the Petitioner’s case to be squarely covered by its decision dated 25th April, 2018 in CWP-8036-2018 (*Sumit Kumar v. State of Punjab*). Accordingly this Court set aside the order dated 23rd February, 2018 and remanded the Petitioner’s parole application to the Respondents for re-consideration and for a passing a fresh order within four weeks. Pursuant thereto, the Petitioner was released on parole for a period of 6 weeks i.e. from 29th October, 2018 to 11th December, 2018 and did not violate the parole conditions.

7. For the second time the Petitioner submitted an application dated 1st February 2019 seeking parole for eight weeks to look after his ailing parents. With there being a delay in the consideration of the Petitioner’s application for parole, the Petitioner approached this Court for a second time with CWP No. 30637 of 2019. This Court by an order dated 22nd October, 2019 disposed of the said petition with a direction to the District Magistrate, Amritsar to decide the Petitioner’s application for parole within a month. Thereafter the impugned order dated 6th February, 2020 passed by the Respondent No. 2 declining the Petitioner’s application for parole. It was based on the report dated 7th December 2019 of the Commissioner of Police Amritsar City giving an identical reason as on the earlier occasion viz., if parole is granted to the Petitioner, he may cause threat to the state security, maintenance of public order and may also indulge in the same trade.

8. This Court has heard the submissions of Mrs. Anupam Bhanot, learned Counsel for the Petitioner and Mr. H.S. Grewal, Additional Advocate General, Punjab.

9. It is seen from the report dated 7th December, 2019 of the Commissioner of Police, Amritsar on the basis of which the impugned order dated 6th February, 2020 has been passed by the Respondent No. 2 that again, the only reason offered is that “there is apprehension that during the release of the prison on parole, he may indulge himself again in the business of narcotics and there is threat to peace and security of the State.” In other words, there appears to be no application of mind by the authorities to the facts and circumstances of the Petitioner’s case, where an identical reason given earlier for rejecting the plea of the Petitioner for release on parole was negated by this Court in its order dated 8th August, 2018. Yet, the very same reason has been put forth without any basis and merely on an “apprehension”.

10. Even in response to the present petition, no peculiar facts concerning the Petitioner have been brought on record by the Respondents to justify the aforementioned “apprehension”. It is also not disputed that the only case involving the Petitioner is the one in which he has been convicted i.e. FIR No. 85/2013 and there is no history of his having committing any similar offence or having indulged in any illegal activity thereafter.

11. In the circumstances, the impugned order dated 6th February, 2020 of the District Magistrate, Amritsar as well as the report dated 7th December, 2019 of the Commissioner of Police, Amritsar on the basis of which Petitioner’s request for release on parole was rejected, are hereby set aside. Since the earlier directions remanding the matter to the Respondents for fresh consideration have not resulted in reconsideration but only a reiteration, the Court sees no purpose in remanding the matter once again to the Respondents.

12. Accordingly, the Petitioner is directed to be released on parole for a period of 6 weeks from the date of his release, subject to the satisfaction of the District Magistrate, Amritsar.

13. The petition is disposed of in the above terms.

(S. MURALIDHAR)
JUDGE

(AVNEESH JHINGAN)
JUDGE

11th September, 2020
jk

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No