

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

CRWP-1709-2020(O&M)
Date of decision:-26.2.2020

Arjan Kumar @ Anil

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

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

Rana Harjasdeep Singh, DAG, Punjab.

H.S. MADAAN, J.

Briefly stated, facts of the case are that petitioner Arjan Kumar @ Anil aged about 28 years, resident of village Surwari, Police Station Ronahi, District Faizabad (U.P.), at present confined in Central Jail, Patiala as a convict in a murder case, had applied for grant of parole for four weeks to meet his family members and other relatives and to look after his family affairs. His parole application with the relevant documents had been sent to District Magistrate, Faizabad (U.P.) from the office of Superintendent, Central Jail, Patiala. However, District Magistrate,

Faizabad after several reminders had not sent specific report, with the result the request of the petitioner/convict Arjan Kumar @ Anil could not be allowed. Therefore, the petitioner has approached this Court by way of filing the present criminal writ petition under Article 226/227 of the Constitution of India for issuance of writ, order or direction in the nature of mandamus directing the respondents to release him on parole under Section 3 & 4 of The Punjab Good Conduct Prisoners (Temporary)Release Act for a period of 4 weeks.

Notice of the petition was given to the respondents. Respondents No.1 to 3 in the written reply filed by them have contended that they had sought report from District Magistrate, Faizabad since Faizabad is native place of the petitioner where he intends to go but that report was not received. The District Magistrate, Faizabad arrayed as respondent No.4 in this case has filed written reply trying to justify the delay in sending report to Superintendent, Central Jail, Patiala and contending that the report has since been sent on 30.12.2018 to ADGP(Prisons) Punjab, Chandigarh with copies to Superintendent, Central Jail, Patiala and Assistant Registrar (Writs) of this Court. On the basis of verification/report received from SSP, Faizabad, the release of petitioner on parole has not been recommended as release of the convict is likely to endanger the security of the State and also to the maintenance of the public order.

I have heard learned counsel for the parties besides going through the record.

Learned counsel for the petitioner has pointed out that

petitioner has undergone around 10 years of imprisonment and while in jail, he has not committed any offence and has not given any reason for complaint, which is evident from the written reply filed by the official respondents No.1 to 3. He further contended that the petitioner is applying for parole for the first time. Similarly his co-accused had already been granted parole on several occasions and they have reported back at Central Jail, Patiala within time and District Magistrate, Faizabad on the basis of vague report is unnecessarily causing hurdles in grant of parole to the petitioner.

Learned State counsel though opposed the request for grant of parole but I find that there is no cogent and convincing reason to deny such concession to the petitioner, which he is asking for the first time having remained in custody for about 10 years. The report of SSP, Faizabad on the basis of which District Magistrate, Faizabad has opposed grant of parole to the petitioner is not very convincing. No cogent and valid reason had been given for sending such report. There is nothing on record to show that the petitioner is involved in any criminal case registered within the jurisdiction of District Faizabad or that he has got a past criminal record. Merely saying that the family condition is not good and reputation is generally bad and if released, the petitioner would involve in other crime does not amount to a justifiable ground.

The law is well settled that a mere apprehension of breach of peace cannot result in denial of parole to a convict. From the perusal of report of District Magistrate, Faizabad, it cannot be inferred that the petitioner would be a threat to security of the State or maintenance of

public order.

Thus the petition stands allowed and respondents No.1 to 3 are directed to release the petitioner on parole for a period of four weeks from the date of release to the satisfaction of concerned authority, who may impose any term and condition found proper or suitable to ensure that the petitioner returns to Central Jail, Patiala after a period of parole is over and he does not misuse the concession of parole.

26.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No