

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

107

CRWP-2894-2020

Date of decision: 20.03.2020

Sukhjinder Singh @ Bitta

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Dr. Bandana Trikha, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G., Punjab
for respondents No.1 to 3-State.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present petition for issuance of directions to the respondents particularly respondent No.3-Superintendent, Central Jail, Ludhiana to allow medical emergency parole to the petitioner to look after his mother during her surgery for removal of stone.

Briefly stated, the petition has been filed on the grounds that the petitioner was convicted in case FIR No.57 dated 14.07.2018 registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Mukandpur, District SBS Nagar and sentenced to 10 years imprisonment. The petitioner has filed criminal appeal CRA-S-3367-2019 in this Court which is pending. The petitioner approached respondent No.3-Superintendent, Central Jail, Ludhiana for emergency parole under Section 3(1)(aa) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 on the ground that emergent surgery of his mother for removal of stone is fixed for

21.03.2020 which involves high risk.

Learned Counsel for the petitioner has contended that in view of the provisions of Section 3(1)(aa) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, the petitioner is entitled to temporary release on parole on the ground of serious illness of his mother for attending to her during her surgery and, therefore, directions be issued to the respondents for releasing him on parole.

Learned State Counsel has submitted that on verification of facts it has been found that surgery of mother of the petitioner is so scheduled but father and brother of the petitioner can look after his mother during her surgery and the petitioner who is habitual offender does not deserve temporary release on parole as he is likely to commit heinous offence.

Section 3(1)(aa) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 permits temporary release of a prisoner on parole on the ground of serious illness of husband or wife or son or daughter or father or mother or brother or sister or grand-father or grand-mother or grandson or grand-daughter or father-in-law or mother-in-law of the prisoner. In ***Kulwant Singh VS. State of Punjab (PHHC): 1987(2) CurLJ (CCR) 438*** parole was allowed on the ground of serious illness of mother. Since there is no condition that such parole can be granted only where the prisoner is the only person to look after such family member seriously ill, temporary release on parole cannot be denied on the ground of mere availability of other family member to attend such family member who is seriously ill for his/her medical treatment.

Although parole can be denied on the ground of threat to security of State or maintenance of public order but the same cannot be denied on the ground of likelihood of the prisoner committing an offence during the period of parole. Reference in this regard may be made to ***Mohd. Iftkhar @ Kaka Vs. State of Punjab: 2019(2) Law Herald 1156.***

In the present case the petitioner has attached along with the petition copy of the application submitted by his wife to respondent No.3-Superintendent, Central Jail, Ludhiana for emergency parole. Learned Counsel for the petitioner has conceded that no order has been passed on the above said application.

In view of the facts and circumstances of the case, the present petition is disposed of with direction to respondent No.3-Superintendent, Central Jail, Ludhiana to dispose of the above said application in accordance with law.

A copy of this order be supplied to learned counsel for the petitioner under the signatures of Bench Secretary of this Court and a copy of this order be also sent to respondent No.3-Superintendent, Central Jail, Ludhiana by email on his official email address for requisite compliance.

20.03.2020

Vinay

**(ARUN KUMAR TYAGI)
JUDGE**

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