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

211

CRWP-3843-2020

Date of decision : 27.07.2020.

Khushi Khan

... Petitioner

Versus

State of Punjab and others

.. Respondents

CORAM :HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Gurvinder Singh Sandhu, Advocate for the petitioner.

Mr. Karan S. Aulakh, DAG, Punjab.

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the order dated 24.04.2020 (Annexure P-1) whereby her application for release on parole has been declined. The parole has been sought on the ground that the petitioner wants to be with her family members especially her 74 years old mother, who is suffering from age related ailments.

The petitioner was an accused in FIR No.211 dated 19.08.2009 under Section 15 of the NDPS Act. The allegations against the petitioner was that she was travelling in a vehicle wherefrom poppy husk was recovered. She was convicted by the trial Court on 08.09.2011 and sentenced to undergo rigorous imprisonment for a period of 12 years. She had preferred an appeal before this Court and the Division Bench of this Court had allowed the appeal and her conviction was set aside by the judgment dated 22.01.2019. The State had preferred SLP and the same was allowed on 15.10.2019 whereby the

conviction of the petitioner was restored but the sentence was reduced to ten years.

Learned counsel for the petitioner contends that the petitioner is 50 year old lady and she is not involved in any other case. She has undergone sentence of almost 06 years out of the sentence of ten years. He also contends that the petitioner had earlier been granted parole but she could not surrender in time and has now completed two years in custody after her re-arrest. Learned counsel has relied upon the judgment passed by the Coordinate Bench of this Court in the case of ***Mukesh Kumar versus The State of Haryana and others***, in CWP No.5628 of 2018, decided on 19.03.2018, wherein the petitioner had been granted parole for two weeks. In that case, the petitioner had been released on parole earlier. He had jumped the parole and had fired shot at the police officials while he was undergoing life imprisonment for an offence punishable under Sections 302, 307, 394, 397 and 34 IPC and Sections 25/54/59 of the Arms Act.

Reply on behalf of the respondent/State has been filed wherein it is stated that the petitioner had earlier been granted parole and did not return on time and was re-arrested. It is also stated therein that the mother of the petitioner is being looked after by her brother and does not require any treatment. However, it is also mentioned in Annexure R-3 with the reply that the mother of the petitioner can barely walk.

Heard through video conferencing.

The case of the petitioner has been rejected primarily on the ground that she did not surrender in time when she had earlier been granted parole. A bare reading of the impugned order dated 24.04.2020

(Annexure P-1) indicates that the cases of 30 applicants had been rejected by relying on the report received from the Senior Superintendent of Police, Sangrur. It is mentioned in Column No.5 of the report dated 21.04.2020 that if these persons are released on parole, they may pose threat to the society and there is apprehension of disruption of peace and harmony. The petitioner had earlier been declared proclaimed offender as she has not reported to jail after her release on parole and in case, she is released on parole, she may abscond. It is further mentioned that there is risk to law and order and peace and harmony.

Besides this FIR wherein the petitioner has been convicted, she is not involved in any other criminal case. It would not be justified to hold that her release would pose danger to the security of the State or cause law and order problem. The allegations against the petitioner are that she was travelling in a vehicle which was found to be carrying poppy husk. The petitioner is a 50 year old lady and has undergone sentence of almost six years out of the total sentence of ten years. After her re-arrest, she has undergone sentence of two years. The object of parole is for reformation of the convict and to enable the convict to maintain her contact with the society at large including her family members. It is incomprehensible as to how a 50 year old lady with a solitary case under the NDPS Act against her, would pose threat to the society or would endanger law and order. Insofar as the maintenance of law and order is concerned, it is the duty of the State authorities to do so.

In the case of ***Mukesh Kumar versus the State of Haryana (supra)***, the Court had granted parole for two weeks even though the petitioner therein while undergoing life imprisonment consequent to his conviction under Sections 302, 307, 394, 397 and 34 IPC and Sections 25/54/59 of the Arms

Act, had earlier jumped parole and had fired shots at the police officials.

In view of the aforementioned facts and circumstances, it would be in the interest of justice if the petitioner is granted parole for a period of four weeks.

Consequently, the petition is allowed and the impugned order dated 24.04.2020 (Annexure P-1) is set aside. The petitioner shall be released on parole on 29.07.2020 at 11.00 a.m. for four weeks subject to her furnishing necessary surety bonds to the satisfaction of the competent authority. The petitioner shall also furnish a telephone number to the Jail Superintendent on which she can be contacted, if required. The petitioner shall surrender before the District Jail, Sangrur by 05.00 p.m. on 28.08.2020.

(ANUPINDER SINGH GREWAL)
JUDGE

July 27, 2020
sonia gugnani

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No