

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

**CRWP- 4282 of 2020 (O&M)
DATE OF DECISION : 23.07.2020**

Kewal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. L.S. Sekhon, Advocate,
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. Through the instant petition, the petitioner, who is presently undergoing ten years' imprisonment, in a case under Narcotic Drugs and Psychotropic Substances, is seeking parole under Punjab Good Conduct Prisoners(Temporary Release) Act, 1962 for socialize and to take care of his family. He is impugning order dated 07.02.2020(Annexure P-1) vide which his request for releasing him on parole, has been declined by District Magistrate, Sangrur-respondent No.2.

2. Learned counsel for the petitioner submits that the petitioner is in in custody for the last more than 3 years and 10 months. He was convicted on 06.06.2019 and his appeal is pending before this Court. According to him, in a cryptic manner, the request of the petitioner has been declined by the authorities, merely on the basis of apprehension that if released on parole, he will again indulged in selling the intoxicants. While referring to certificate

given by Gram Panchayat of his village(Annexure P-2) he points out that the apprehension, on the basis of which impugned order has been passed, is totally misconceived. He submits that there is no foundation in the allegations that the petitioner is a habitual of selling narcotics as it is the only case against him and no other case of similar nature is pending against him. He relies on **Jassa Singh @ Jassa Vs. State of Punjab & Ors.(CRWP-1090 of 2015)** and **Ram Chander Vs. State of Punjab & Ors. (CRWP-554 of 2016)**, decided by Hon'ble Division Bench of this Court on 22.01.2016 and 06.03.2017 respectively, to contend that material has to be placed before District Magistrate for consideration as to whether release of a prisoner would be a threat to security of State or maintenance of public order and the likelihood of committing a crime while on parole would not be a sufficient ground to decline temporary release on parole as mere likelihood of committing crime is not to be taken as apprehension of a threat to the security of the State of the maintenance of public order.

3. On the other hand, learned State counsel submits that before passing the impugned order, the District Magistrate has relied upon the report of Sub Divisional Magistrate, wherein it was specifically informed that there is apprehension that petitioner would indulge in sale of narcotics, if released on parole. Hence, dismissal of petition has been sought.

4. Having heard learned counsel for the parties and perusing the record, I am of the considered opinion that impugned order(Annexure P-1) has been passed merely on the basis of conjectures and surmises. Though, he has referred to the report of Sub Divisional Magistrate, but the recommendations (Annexure P-2) made by the Gram Panchayat of the village negates the report. There has to be some material to show that temporary release of a prisoner would endanger the security of the State and maintenance of law and order

situation, as held in Jassa Singh and Ram Chander's case (supra). However, the impugned order passed by respondent No.2 is without any basis and is based on mere generalization.

5. In the circumstances, the petition is allowed. Petitioner shall be released on parole for a period of four weeks from tomorrow, subject to his furnishing bail bonds and surety bonds to the satisfaction of Superintendent, District Jail, Sangrur. The petitioner is directed to surrender before the Jail Authorities on 21.08.2020 well before lock-up.

JULY 23, 2020
Jiten

(ARUN MONGA)
JUDGE

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