

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

CRWP-5844-2020

Date of Decision : October 01, 2020

Sukhchain Singh

..... PETITIONER

VERSUS

State of Punjab and others

.... RESPONDENTS

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Ms. Arti Kaur, Advocate, for the petitioner.

Mr. Gaurav Garg Dhuriwala, Senior Deputy Advocate General,
Punjab.

...

Sanjay Kumar, J.

The petitioner seeks grant of parole for 6 weeks under Section 3(1)(d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (hereinafter, 'the Act of 1962'). The reason for his seeking this relief

is that he has to take care of his wife and minor child.

The request of the petitioner was turned down by the authorities on the strength of the report dated 18.04.2020 furnished by the Senior Superintendent of Police, Sangrur, to the District Magistrate, Sangrur.

The petitioner suffered conviction under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter, 'the Act of 1985'), in relation to FIR No.126 dated 09.11.2018 on the file of Police Station Sadar, Sangrur, *vide* judgment dated 12.03.2020 passed by the learned Judge, Special Court, Sangrur. He was sentenced to 5 years imprisonment and payment of fine of ₹ 80,000/-. Aggrieved thereby, he filed CRA-S-1113-2020 before this Court. The said appeal was admitted on 10.06.2020 and payment of the fine was stayed pending its disposal.

The petitioner is presently in custody. He moved an application on 07.04.2020 before the District Magistrate, Sangrur, the 2nd respondent herein, seeking grant of parole for 6 weeks on the ground that he had to take care of his minor child and wife. According to him, they were being supported by his father-in-law but he was also very old and had no other financial support. His plea for grant of parole was however negatived by the Senior Superintendent of Police, Sangrur, *vide* report dated 18.04.2020, on the ground that he was a habitual offender, indulging in sale of drugs, and that grant of parole may result in his undertaking further sale of drugs and damaging the lives of people.

The Deputy Superintendent, Maximum Security Jail, Nabha, filed a reply in this case.

Therein, he stated that the petitioner was incarcerated on 14.09.2020. He reiterated that the petitioner was a habitual seller of drugs and that his release on parole would enable him to undertake similar activities. The custody certificate filed along with the reply demonstrates that the petitioner has suffered 7 months 10 days of custody, in all, in relation to this case. Significantly, no other FIR was registered against him, be it under the Act of 1985 or under any other penal law.

Mr. Gaurav Garg Dhuriwala, learned Senior Deputy Advocate General, Punjab, concedes that there is no reason forthcoming as to how a bald statement was made by the police authorities that the petitioner is a habitual offender insofar as the Act of 1985 is concerned.

Further, going by the conviction and sentence suffered by the petitioner, it is clear that the said case also did not involve a commercial quantity of a prohibited narcotic drug or psychotropic substance, in terms of the Act of 1985. Therefore, the rejection of his request for parole on the ground that he is a habitual offender cannot be countenanced.

That being said, it may be noted that Section 3(1)(d) of the Act of 1962 permits grant of parole for 'any other sufficient cause' but the period of release on parole on this ground is conditioned by Section 3(2). This provision states that where the prisoner is to be released on the ground specified in Section 3(1)(d), the maximum period of parole cannot exceed 4 weeks. In consequence, the petitioner would not be entitled to 6 weeks of parole but only 4 weeks.

The writ petition is accordingly allowed directing the respondent authorities to grant four weeks parole to the petitioner under Section 3(1) (d) of the Act of 1962 upon his furnishing sufficient personal and surety bonds, to ensure his good behaviour during the release period and for his surrender upon expiry of the parole, to the satisfaction of the authorities concerned.

No order as to costs.

October 01, 2020
Kang

(Sanjay Kumar)
Judge

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