

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

CRWP NO.9305-2020

Date of Decision: 23.11.2020

KRISHAN KUMAR

....PETITIONER..

Versus

STATE OF PUNJAB AND ORS.

....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present : Mr. Rajesh K. Kataria, Advocate for the petitioner.

Mr. Sahil Sharma, DAG, Punjab.

SANT PARKASH , J.

*(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court)*

Instant petition has been filed under Article 226 of the Constitution of India directing the respondents to release the petitioner for 60 days parole enabling him to look after his widow mother and to arrange money etc. for her.

The petitioner was tried in FIR No.07 dated 07.01.2016, under Sections 365, 380, 302, 201, 483, 427, 411 and 148 IPC, Police Station Amargarh, District Sangrur and accordingly, he has been convicted and sentenced for life imprisonment. Against the judgment of conviction and order of sentence, petitioner filed an appeal before this Court, which is still pending admitted for final adjudication.

Learned counsel for the petitioner submits that the mother of the petitioner is widow lady, she does not have any work due to covid-19 and have no source of income. The petitioner applied for parole as per the

provisions in the Act and his case was sent to the District Magistrate Sangrur, after completing all the formalities. But the parole case of the petitioner has been rejected vide impugned order dated 08.09.2020 (Annexure P-3) on the ground that there is apprehension of disturbance of peace in the State, whereas it has been admitted in the order that the petitioner was earlier granted parole two times and he spent peacefully. The co-accused of the petitioner is also on parole. The petitioner is not involved in any other case and has not committed any offence during last paroles.

On the other hand, learned State counsel strongly opposes the submissions made by learned counsel for the petitioner. He further submits that the petitioner has already been granted the benefit of parole two times and prays for dismissal of instant petition.

After having heard learned counsel for the parties and perusing the paper book, this Court is of the considered opinion that the authority rejecting the parole has exercised its jurisdiction on the basis of the facts collected for considering the request of the petitioner for releasing him on parole. It has been specifically mentioned in the impugned order (Annexure P-3) that the petitioner is a naughty type of person, if he comes out on parole there may be danger to the peace/law and order situation. Moreover, he has already spent two parole leave; but during last parole he did not return on time in the Jail and appeared after 19 days late from his parole leave. If such type of convict is enlarged on parole, there is every apprehension that he would not return. Otherwise also, in the impugned order (P-3), it has been pointed out that release of the present petitioner on parole would deteriorate the peace/law and

order situation and danger may cause to the security of the State. These are the factual aspects and this Court under Article 226/227 of the Constitution of India cannot go into the disputed question of facts.

Lastly, the petitioner has sought the concession of parole on the ground of parity as extended to the co-accused vide order dated 20.12.2019 (Annexure P-5). Even, this submission of the learned counsel for the petitioner is totally misconceived. The order passed by the Coordinate Bench of this Court cannot be cited as binding precedent and moreover, the factual aspects of the present case are entirely different .

In view of the above, we do not find any merit in the instant petition and same is accordingly dismissed.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

November 23, 2020
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whether speaking/reasoned: Yes/No

whether reportable: Yes/No