

**CRWP-1493-2019 (O&M)**

Date of decision: January 13, 2020

Bajrang Lal

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Swati Verma, Advocate  
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for issuance of directions to the respondent to grant eight weeks' parole to the petitioner to take care of his ailing mother as per the provisions of of Section 3(1)(d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (hereinafter referred to as 'the Act').

On 8.1.2020, the following order was passed :-

"Counsel for the petitioner submits that the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.One Lac vide judgment dated 9.1.2019 passed by the Judge, Special Court, Fazilka in a trial arising out of FIR No.68 dated 22.6.2015. Counsel for the petitioner further submits that the appeal of the petitioner is pending before this Court and as per the provisions of the Act, the petitioner has applied to the Superintendent, Central Jail,

Ferozepur for grant of eight weeks' parole for taking care of his ailing mother.

Since the petitioner is a permanent resident of District Bikaner in Rajasthan, the Superintendent, Central Jail, Ferozepur sought a report from the District Magistrate, Bikaner.

The District Magistrate, Bikanere, who vide communication dated 7.8.2019 opined that since the petitioner is convicted under the NDPS Act and wants to procure parole for the first time, there is a possibility that he may jump the parole and, accordingly, did not recommend the parole to the petitioner.

Counsel for the petitioner has submitted that in pursuance thereof, the Superintendent, Central Jail, Ferozepur has rejected the name of the petitioner for releasing him on parole.

Reply by way of affidavit of Deputy Commissioner, Fazilka, District Fazilka has been filed and as per the same, the only reason for rejection of his parole is the communication dated 7.8.2019, which was submitted by the District Magistrate, Bikaner, Rajasthan to the Superintendent, Central Jail, Ferozepur.

A perusal of the affidavit show that the petitioner is not involved in any other case.

The case of the petitioner was recommended by the Superintendent, Central Jail, Ferozepur for releasing the petitioner on parole for eight weeks' as per the provisions of the Act, however, the same

was rejected only on the report dated 7.8.2019 submitted by the District Magistrate, Bikaner which is based on a presumption that in case the petitioner is released on parole he may abscond and may not surrender back before the jail authority.

Counsel for the petitioner has submitted that the petitioner is in custody since the date of his arrest in the FIR dated 2.6.2015 and his appeal i.e CRA-S-532-SB of 2015, which was admitted on 25.2.2019. However, the sentence of the petitioner has not been suspended so far.

Adjourned to 13.1.2020

The Registry is directed to list the CRA-S-532-SB of 2015 on the next date of hearing.”

Learned State counsel has filed the custody certificate and as per the same, the petitioner has undergone for a period of 01 year, 06 months and 02 days of total sentence. A perusal of CRA-S-532-2019 show that the same stands admitted on 25.2.2019 and there is no application for the suspension of sentence.

Considering the fact that the petitioner is not involved in any other case and as per the judgment dated 9.1.2019 attached with CRA-S-532-2019, the petitioner was on bail during the trial. A perusal of the custody certificate also show that on 26.12.2015, after the petitioner was granted bail he was released from the jail and after his conviction on 9.1.2019, he was again taken back in custody. Therefore, the petitioner remained on bail for a period of

about 04 years and during this period neither he repeated any

such offence nor absconded from the Court proceedings, therefore, the apprehension shown by the District Magistrate, Bikaner in this regard is totally uncalled for.

Accordingly, this petition is allowed and the Deputy Commissioner, Fazilka, District Fazilka is directed to release the petitioner for 08 weeks' parole as per the case recommended by the Superintendent, Central Jail, Ferozepur, in accordance with the terms and procedure prescribed.

January 13, 2020  
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( ARVIND SINGH SANGWAN )  
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No