

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

CRWP-1482-2019

Date of decision: 02.12.2020

Darbara Singh

...Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Sandeep Vermani, Addl. AG, Punjab.

AJAY TEWARI, J.(ORAL)

1. Through the present petition, petitioner is challenging the action of the respondents for declining the parole.
2. The brief facts are that the petitioner was convicted for having in possession of 6 kgs of Heroin vide judgment and order dated 28.07.2015 as under:-

Name of the convict	Under section	Sentence
Darbara Singh @ Bara Singh of Gurnam Singh	21 of the Narcotic Drugs and Psychotropic Substances Act	Rigorous imprisonment for 12 years, fine to the tune of Rs.1,50,000/- and in default of payment of fine, he shall further undergo rigorous imprisonment for two years.
	25 of Arms Act	Rigorous imprisonment for 03 years, fine to the tune of Rs.10,000/- and in default of payment of fine, he shall further undergo rigorous imprisonment for three months.

Both sentences will run concurrently.

3. As per the custody certificate dated 01.12.2020 filed by Baljit Singh, PPS, Deputy Superintendent, Central Jail, Amritsar, the petitioner has undergone actual sentence of 09 years 02 months and 05 days out of 12 years of rigorous imprisonment. The custody certificate also shows that he has never been released on parole. The custody certificate further shows the pendency of another case bearing FIR No.221 dated 22.09.2018, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 52 Prison Act, PS-Kotwali, Kapurthala.

4. As regards this offence, learned Additional Advocate General on instructions from ASI Ravinder Singh states that half gram of heroin and one mobile phone were recovered from the petitioner and another person while they were in jail.

5. The prayer for parole of the petitioner has been rejected on the ground that the petitioner is a resident of border area and if released on parole, he may indulge in such activities in future.

6. Earlier petitioner had filed CRWP No.543 of 2016 which was disposed of on 28.11.2016 with the following order:-

“The prayer has been declined by the respondents on the ground that his release is likely to engage his involvement in cases of the similar kind as the one for which he is undergoing conviction as the petitioner resides in a border area. However, the previous record of the petitioner would reveal his involvement in a case of violence resulting in his acquittal. He, however, suffers from one conviction for an offence pertaining to violation of Section 52-A of the Punjab Prisoner's Act. We are, thus, of the opinion that there is hardly any material or record to justify the apprehensions of the respondent State to deny the petitioner parole on the ground that he is likely to involve himself in

activities of the kind for which he is undergoing conviction in the present case. The reasons, therefor, are un-sustainable and sans any foundation.

Consequently, we accept the petition and remit the matter back to the respondents to reconsider the prayer for release of the petitioner on parole as expeditiously as possible but not later than two weeks from the date of receipt of certified copy of the order.”

7. Even the reason given in the present petition is same. We do not find any sufficient reason to deny the prayer of the petitioner in entirety. The impugned order is *set aside* and the petitioner be released on parole for a period of three weeks subject to his furnishing surety to the satisfaction of the concerned Chief Judicial Magistrate.

8. Petition is disposed of accordingly.

9. Since the main case has been decided, the pending Criminal Miscellaneous Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

02.12.2020
m. sharma

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