

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

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Criminal Writ Petition No.1598 of 2019

Date of Decision: February 03, 2020.

Tilak Raj @ Billa

.....Petitioner

versus

The State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE VIVEK PURI.

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

Ms.Jasleen Kaur, AAG, Punjab.

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Vivek Puri, J.

The present petition under Articles 226/227 of the Constitution of India has been moved for seeking quashing of the order dated 28.03.2019 passed by respondent No.3 whereby case of the petitioner for the grant of parole for 6 weeks has been wrongly and illegally rejected and for issuance of a direction for the release of the petitioner on parole for the period of six weeks.

Briefly, the case as put forth by the petitioner is to the effect that he has been convicted and sentenced to undergo rigorous imprisonment for a period of 10 years alongwith fine of Rs.1.00 lac for the offence punishable under Section 21-61-85 of the NDPS Act (for short, 'the Act'), in case FIR No.78 dated 10.08.2015, registered at Police Station Sadar Banga under Section 22 of the Act, by the learned Judge, Special Court, Shaheed Bhagat Singh Nagar. The conduct of the petitioner had been good in jail. After the conviction, Manjit Kaur, wife of the petitioner had applied for the grant of parole for 6 weeks to the petitioner for taking care and looking after the family members. Respondent No.3 has not considered the case of the

petitioner sympathetically and had declined the request for grant of parole for six weeks vide order dated 28.03.2019 despite the undertaking given by the wife of the petitioner as well as number of residents of village Thandian regarding good conduct of the petitioner during the parole period. The order dated 28.03.2019 has been alleged to be arbitrary, against the principles of natural justice and liable to be quashed.

The petition has been resisted by the respondents. It has been admitted that petitioner has been sentenced for the offence punishable under Section 21 of the Act. The petitioner has undergone three years, two months and nine days of actual sentence. Respondent No.3 has rejected the case of the petitioner for parole on the basis of the report submitted by the Senior Superintendent of Police, Shaheed Bhagat Singh Nagar, as on getting the parole he can re-do the business of drugs/intoxicant substances and shall cause serious threat to the society. Besides, three more cases have been registered in different police stations against the petitioner, i.e., (1) FIR 44 dated 30.11.2010 under Sections 21/61/85 of the Act (recovery of 20 grams smack), Police Station Sadar, Banga; (2) FIR No.89 dated 12.11.2013, under Sections 21/61/85 of the Act (recovery of 5 grams Heroine), Police Station Sadar Banga and (3) FIR No.08 dated 27.01.2014, under Sections 21/61/85 of the Act (recovery of 70 grams intoxicant powder), Police Station Sadar, Banga.

I have heard learned counsel for the parties.

Custody certificate has been placed on record which indicates that the petitioner has undergone the sentence imposed upon him in all the above mentioned three FIRs which have been registered against him. The apprehension of the respondents that the petitioner may indulge in selling

intoxicant substances appears to be hypothetical. Furthermore, to dispel and allay the apprehension, adequate conditions can be imposed upon the petitioner and his conduct can be kept under watch during the period of parole. The reasons assigned for declining the parole to the effect that there is likelihood that he may again indulge in the business of drugs/intoxicants, cannot be termed to be a sufficient ground to decline the relief as sought by the petitioner as likelihood of committing the crime cannot be termed to be real and genuine apprehension of a threat to the security of the State or maintenance of public order. It has not been reported that the conduct of the petitioner in jail was in any manner not satisfactory. Consequently, the petitioner has successfully made out a good case for the release on temporary parole as per the provisions of Section 3(1)(d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962.

For the aforesaid reasons, the petition is allowed, the impugned order dated 28.03.2019 is set-aside and the petitioner is ordered to be release on temporary parole for six weeks from the date of release to the satisfaction of the District Magistrate concerned. It is further directed to impose such conditions as may be required in jail manual, towards the ends of securing the presence of the petitioner in jail after the period of parole is over and the temporary parole is not mis-used.

February 03, 2020
mohinder

(VIVEK PURI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No