

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-359-2021

Date of Decision:06.09.2021

Munna Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present: Ms. B.P.K Brar, Advocate,
for the petitioner.

Mr. H.S.Sullar, DAG, Punjab.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

SANT PARKASH, J.

Instant petition has been filed under Article 226/227 of the Constitution of India for setting aside order dated 22.09.2020 (P-1) passed by the District Magistrate, Ludhiana-respondent No.3, whereby case of the petitioner seeking parole has been rejected. Further prayer is for issuance of directions to the respondents to release the petitioner on parole for eight weeks to meet his old parents/household affairs.

The petitioner was convicted and sentenced in FIR No.166 dated 15.07.2017, under Sections 364-A/506/120-B/34 IPC, Police Station Shimlapuri, District Ludhiana and accordingly, he has been convicted and sentenced to undergo 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 petitioner has

submitted an application to the jail authorities for grant of eight weeks' parole on 20.03.2020. She further submits that there is no other able male member in the family to look after his old parents and younger sister. She next submits that there is nothing adverse against the conduct and behaviour of the petitioner. Learned counsel also submits that the case of the petitioner has been wrongly rejected by the District Magistrate, Ludhiana on the basis of the report of the Commissioner of Police that there is an apprehension of breach of peace. In order to fortify her submissions, learned counsel for the petitioner has placed reliance upon a Division Bench judgment dated 27.11.2014 passed by this Court in **CRWP-1464-2014 (Vikramjit Singh @ Vicky Versus State of Punjab and others)**.

Learned counsel for the State submits that the District Magistrate, Ludhiana has rightly rejected the parole of the petitioner on the basis of police verification report, wherein it was mentioned that the ransom was demanded by the petitioner after kidnapping the child and there is every apprehension that the petitioner may again indulge in such activity.

We have given our thoughtful considerations to the matter. As already noticed, the petitioner is undergoing life imprisonment for having committed offences punishable under Sections 364-A/506/120-B/34 IPC. During his incarceration in jail, he has sought temporary release on parole to meet his old parents/household affairs in terms of Section 3(1) (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, which reads as under: -

“3. Temporary release of prisoners on certain grounds:-

(1) The State Government may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily for a period

specified in sub-Section (2) any prisoner if the State government is satisfied that: -

(a) to (c) xxxxxx

(d) it is desirable to do so for any other sufficient cause.”

In terms of Section Section 3(2)(b) where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1) the period for which a prisoner may be released shall be determined by the State Government so as not to exceed four weeks. Section 6 of the Act provides that “consultation with District Magistrate is not necessary where prisoners are not to be released”. Sub-section (ii) of Section 6 reads as follows:-

“6 (ii). No prisoner shall be entitled to be released under this Act, if on the report of the District Magistrate, where consultation with him is necessary, the State Government or an officer authorized by it in this behalf is satisfied that, that his release is likely to endanger the security of the State or maintenance of public order.”

In view of the aforesaid provisions of law, it is crystal clear that while considering the request of the petitioner for grant of parole, discretion has been bestowed upon the concerned Officer/State Government. It clearly indicates that the release on parole of a convict cannot be claimed as a matter of right as the legislature has used the word 'may' not 'shall'.

With this background, if the impugned order dated 22.09.2020 (P-1) is glanced through, we do not find any reason to interfere as the same has been passed after taking into consideration all the facts collected for considering the request of the petitioner for releasing him on parole. The solitary ground taken by the petitioner for seeking parole to look after his

old parents and younger sister cannot be said to be justifiable and sufficient ground.

Admittedly, parole of the present petitioner has not been recommended on three times on the ground that ransom was demanded by the present petitioner after kidnapping the child. The apprehension of the authorities in rejecting the parole is well founded that if such type of convict is released on parole, there is every apprehension that he would indulge in similar activity.

With regard to the order passed by this Court in **Vikramjit Singh's** case (supra), it would suffice to say that it cannot be said to be a binding precedent. It is a settled principle of law that each and every case has its own facts and circumstances and are required to be seen in their entirety in a comprehensive manner.

Otherwise also, it is the subjective satisfaction of the authority concerned to evaluate the circumstances seeking parole. Unless and until some arbitrariness or malafide is apparent in the order of the said authority, only then, this Court should intervene under Article 226 of the Constitution of India.

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

06.09.2021

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Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO