

DHARMINDER @ BHINDA

...PETITIONER

Versus

STATE OF PUNJAB AND ORS.

...RESPONDENTS

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Sahil Puri, Advocate for the petitioner.

Mr. Avinit Avasthi, Assistant Advocate General, Punjab.

JITENDRA CHAUHAN J. (ORAL)

The matter has been taken up through video-conferencing in the light of the pandemic COVID-19 situation and as per instructions.

This is a petition under Article 226 of the Constitution of India seeking quashing of impugned order dated 07.05.2020 (Annexure P-1), passed by respondent No.2, whereby, the prayer to release the petitioner on parole for 08 weeks to enable him to meet his family members, has been declined.

States that the parole application of the petitioner was rejected merely on account of apprehension and in a mechanical manner.

Short reply by way of affidavit of Superintendent, Central Jail, Kapurthala on behalf of respondent Nos.1,2,3 and 5 has been circulated in the Court today through email by the learned State counsel and the same is taken on record.

Learned State counsel informs that the petitioner is undergoing sentence of 14 years in case FIR No. 115 dated 16.09.2012, registered under Sections 15 and 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985. As per the report of Senior Superintendent of Police, Moga dated 06.04.2020, there is likelihood of the petitioner absconding the parole and further indulging in drug trafficking.

Heard.

The petitioner is in continuous custody since 22.09.2012. He is neither involved in any other FIR nor there is anything on record to suggest that he ever misused any concession allowed by the Court. He is a local resident of District Moga. Mere apprehension of the respondents that the petitioner may commit some heinous crime, is no ground to refuse parole. In **Chand Singh Versus State of Punjab 1996 (3) RCR Criminal 230**, this Court had observed as under:-

“It is the duty of the District Magistrate and the Superintendent of Police to maintain law and order in the area. If there is an apprehension for breach of peace, it is the duty of the police and the District Magistrate to look into the matter and give protection to the people who are expecting such danger from, the release of the accused on parole. The law laid down is that no body can be released if his release is detrimental to the security or integrity of the country. The mere allegation that there is apprehension of breach of peace is no criteria on the basis of which the Inspector General of Prisons can refuse the release of the petitioner on temporary parole for a specified period as laid down in the section.”

No judgment taking a contrary view has been cited by the learned State counsel. In the circumstances, we are inclined to accept the prayer made. Accordingly, the instant petition is allowed and the petitioner is granted parole of eight weeks on his furnishing indemnity bonds in the sum of Rs. 1 lakh with two local sureties of the like amount to the satisfaction of the competent authority/Duty Magistrate. The petitioner shall surrender before the jail authorities on the date and time to be noticed by the releasing Court/Duty Magistrate.

(JITENDRA CHAUHAN)
JUDGE

(VIVEK PURI)
JUDGE

22.03.2021
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