

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

215

CRWP-948-2021

Decided on : 03.03.2021

Mastu Khan

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. Ravi Kamal Gupta, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, AAG, Punjab.

MANJARI NEHRU KAUL, J. (Oral)

Through instant petition filed under Articles 226/227 of the Constitution of India read with Section 482 Cr.P.C. read with Section 3(aa) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (in short 'the Act'), petitioner is seeking directions to the official respondents to release the petitioner on parole in terms of the directions issued by this Court vide order dated 27.10.2020 (Annexure P-1).

Upon notice of motion having been issued on 12th February, 2021, learned State counsel has put in appearance on behalf of the respondents (State) and reply dated 23.02.2021, by way of affidavit of Gurpreet Singh, Deputy Superintendent, Maximum Security Jail, Nabha, on behalf of respondents No.1 to 3 has been filed. Same is taken on record, subject to all just exceptions.

As per the aforesaid reply, due to the recovery of a mobile phone from the petitioner from inside the jail on 27.10.2020, a case FIR No. 216, dated 28.10.2020, under Section 52A of the Prison Act, at PS Kotwali Nabha, was registered against him. Since, the petitioner had failed to maintain good

conduct in the jail premises, his case for release on parole was declined and returned back. Accordingly, the Additional Director General of Jail, Punjab, Chandigarh after stopping the parole of the petitioner for one year, intimated the same to the District Magistrate, Sangrur vide his office letter dated 15.12.2020. It has been further stated in the said reply that conduct of the petitioner was not satisfactory, as within a short span of one year, he had committed jail offences twice and consequently, two cases under Section 52A of the Prison Act, stood registered against him.

On the other hand, learned counsel for the petitioner submits that the petitioner was granted the concession of parole for three weeks by this Court vide order dated 27th October, 2020 (Annexure P-1), however, on the very same day a mobile phone was shown to have been recovered from his possession in the jail premises, leading to the registration of an FIR under Section 57A of the Prison Act against him. Learned counsel has, thus, submitted that the *mala fides* of the jail authorities to not allow the petitioner to be released on parole is clearly evident from the fact that soon after the order of this Court dated 27.10.2020, a false case under Section 57A of the Prison Act, was planted upon him. Learned counsel has also submitted that the petitioner had already been granted bail for the offence under Section 57A of the Prison Act, in case FIR No.216, dated 28.10.2020.

Per contra, learned State counsel has opposed the prayer and submissions made by learned counsel for the petitioner and submitted that the petitioner is a habitual offender and has been involved in two cases of similar nature within a span of one year. However, learned State counsel has not been able to controvert the factum of the petitioner of having been found in possession of a mobile for the second time only after he had been ordered to be released on parole by this Court.

Heard.

The Apex Court in *Asfaq vs. State of Rajasthan and others, 2018*

(1) SCC (CrL) 390, while dealing with the question regarding parole and furlough to prisoners observed as under:

“From the aforesaid discussion, it follows that amongst the various grounds on which parole can be granted, the most important ground, which stands out, is that a prisoner should be allowed to maintain family and social ties. For this purpose, he has to come out for some time so that he is able to maintain his family and social contact. This reason finds justification in one of the objectives behind sentence and punishment, namely, reformation of the convict. The theory of criminology, which is largely accepted, underlines that the main objectives which a State intends to achieve by punishing the culprit are: deterrence, prevention, retribution and reformation. When we recognise reformation as one of the objectives, it provides justification for letting of even the life convicts for short periods, on parole, in order to afford opportunities to such convicts not only to solve their personal and family problems but also to maintain their links with the society. Another objective which this theory underlines is that even such convicts have right to breathe fresh air, at least for periods. These gestures on the part of the State, along with other measures, go a long way for redemption and rehabilitation of such prisoners. They are ultimately aimed for the good of the society and, therefore, are in public interest.

The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. Main purpose of such provisions is to afford to them an opportunity to solve their personal and family problems and to enable them to maintain their links with society. Even citizens of this country have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, without employment prospects, without a fundamental knowledge of the communities to which they will

return, and without resources, stand a significantly higher chance of failure. When offenders revert to criminal activity upon release, they frequently do so because they lack hope of merging into society as accepted citizens. Furloughs or parole can help prepare offenders for success.”

The petitioner by way of instant petition too is seeking to meet his family and restore social ties. As observed by the Apex Court in **Asfaq's case** (supra), the parole programme should be used as a tool to facilitate the re-entry of the offenders back into the society, who are aspiring to live as law abiding citizen, after completion of their sentence of imprisonment. Moreover, this Court cannot lose sight of the fact that the mobile phone was allegedly recovered from the person of the petitioner, after he had been ordered to be released on parole by this Court and the earlier offence of being found in possession of a mobile phone was prior to the order dated 27.10.2020, wherein, the said fact already stood noticed by this Court.

Accordingly, the present petition stands allowed with a direction to the official respondents to release the petitioner on parole in terms of the directions issued by this Court vide order dated 27.10.2020 forthwith.

Needless to add that the petitioner shall abide by the conditions as may be imposed upon him by the authorities concerned to secure his presence in jail after the parole period is over.

(MANJARI NEHRU KAUL)
JUDGE

March 03, 2021

J.Ram

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