

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

CRWP NO.1161-2021
Date of Decision: 09.02.2021

RAJESH KUMAR @ RAJAPETITIONER..

Versus

STATE OF PUNJAB AND ORS.RESPONDENTS

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

Present : Mr. Brijesh Nandan, Advocate,
for the petitioner.

SANT PARKASH , J.

*(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court)*

Instant petition has been filed under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside impugned order dated 24.08.2020 (P-1) passed by respondent No.2, whereby case of the petitioner for seeking parole for six weeks has been rejected; and further directing the respondents to release the petitioner for 06 weeks parole.

The petitioner was tried in FIR No.213 dated 03.10.2017, under Section 302 IPC, Police Station Gate Hakima and accordingly, he had been convicted and sentenced for rigorous imprisonment vide judgment dated 19.08.2011. 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 the petitioner applied for six weeks parole as per the provisions in the Act and his case was sent to the District Magistrate Amritsar, after completing all the formalities. But the parole case of the petitioner has been rejected vide order dated 24.08.2020 (Annexure P-1), solely on the ground that there is apprehension of quarrel between petitioner and his brother (complainant) as both are residents of same address.

After having heard learned counsel for the petitioner and perusing the paper book, this Court is of the considered opinion that the authority rejecting the parole has exercised its jurisdiction on the basis of the facts collected for considering the request of the petitioner for releasing him on parole. It has been specifically mentioned in the impugned order (Annexure P-1) that there is apprehension of quarrel between petitioner and his brother (complainant) as both are residents of same address. If such type of convict is enlarged on parole, there is every apprehension that he would indulge himself in the similar activity and would abscond.

The solitary ground seeking parole is for repair of the house. Section 3 (1)(d) and 10(2) (d) of Haryana Good Conduct Prisoners (Temporary Release), Act, 1988 (for short, "Act") stipulates the conditions that where the request of parole can be considered in such type of eventuality. The relevant portion of Section 3 of the Act is reproduced as under:-

3. *Temporary release of prisoners on certain grounds.-*
 - (1) *the State Government may, in consultation with the District*

Magistrate or any other officer appointed in this behalf, by notification in the Official Gazette 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-

.....
(d) it is desirable to do so for any other sufficient cause."
"10. Power to make rules. *The State Government may, by notification, by notification make rules for carrying out the purposes of this Act.*

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

.....
(d) the conditions on which and the manner in which prisoners may be released temporarily under this Act."

7. Rules 4 and 8 (iii) of the Rules, which are also relevant, read thus:

"4. Eligibility. Section 10(2)(d). *- (1) A prisoner shall be entitled to apply for parole only after he has completed one year of his imprisonment after conviction and has earned his first annual good conduct remission under the Act."*

"8. Sufficient cause. *sections 3(1)(d) and 10(2)(d). - Under section 3(1)(d) "sufficient cause" may be considered from amongst the following reasons, namely:-*

.....
(iii) house repairs/new construction of house owned by the convict. Parole for house repair shall be granted only once, in three years;"

At the time of arguments, it is contended that the petitioner has become the co-sharer in the house, which was owned by his father and the allegation against the present petitioner is that he murdered his own father. As per the provisions contained in Section 25 of the Hindu Succession Act, 1956, the petitioner shall be divested of the inheritance of his father as he has committed the murder of his own father. For the time being it cannot be said that the petitioner is the owner of house. Otherwise also, the Court is not inclined to accede to the request because his brother, at whose behest, the case against the petitioner

was registered is residing in the same premises. There is every likelihood that any mis-happening may take place if the petitioner is released on parole.

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

09.02.2021
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whether speaking/reasoned: Yes/No
whether reportable: Yes/No