

CRWP No.879 of 2020

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(PROCEEDINGS THROUGH V.C.)

CRWP No.879 of 2020
Date of Decision: 12.02.2021

Mandeep Singh @ Dhroo

..... Petitioner

Versus

The State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present: Mr. Sapan Dhir, Advocate,
for the petitioner.

Mr. H.S. Grewal, Addl. A.G., Punjab.

AUGUSTINE GEORGE MASIH J. (ORAL)

The petitioner has approached this Court praying for issuance of a writ in the nature of mandamus directing the respondents to release the petitioner on parole for four weeks to be with his newly wedded wife and the other family members as well as his ailing mother.

2. The petitioner has been convicted in a case FIR No.43 dated 23.04.2010 under Sections 148, 302, 307, 379 read with Section 149 of the Indian Penal Code and Section 25 of the Arms Act, Police Station Badhni Kalan, District Moga, for life.

3. Learned counsel for the petitioner states that the petitioner has undergone 09 years of actual sentence and his appeal against conviction is pending before this Court. The marriage of the petitioner

was solemnized on 30.10.2019, in compliance with the order dated 16.10.2019 passed by this Court in CRM No.24199 of 2019 in CRA-D No.1743-DB of 2015, in the Gurudwara Sahib of Jail Complex at Maximum Security Jail Nabha. The petitioner has not been able to stay with his wife for even a day and wants to stay with the other family members also.

4. It has further been submitted that the petitioner had approached the respondents for grant of parole by way of representation dated 17.12.2019 (Annexure P-4) but when no response thereto was received, the present writ petition has been filed. He asserts that the ground which has been taken by the respondents for opposing the prayer of the petitioner for grant of parole is that the petitioner is a habitual offender with many cases registered against him and therefore, was not entitled for the benefit as prayed for. It has also been stated that there is an apprehension that the petitioner, if released on parole, may abscond in the similar manner as his co-accused Jaswinder Singh @ Kaka son of Joginder Singh has done. He is related to absconded co-accused gangster Jaswinder Singh @ Kaka and Vicky Gonder, who has a dreaded gang and therefore, is very dangerous. His release could result in breach of security as well as law and order of the public. He submits that the none of these grounds is sustainable in the light of the law laid down by the Hon'ble Supreme Court in the case of **State of Tamil Nadu & others Vs. P. Veera Bhaarathi** {2019 (2) R.C.R. (Criminal) 118}. Reliance has also been placed upon the judgment of the learned Single Judge of this Court

in the case of **Jaswinder Singh @ Kaka Vs. State of Punjab & others** {2019 (4) R.C.R. (Criminal) 717} to contend that the grounds, which have been taken by the respondents rejecting the prayer of the petitioner for release on parole, are not sustainable.

5. On the other hand, learned counsel for the State, on the basis of the affidavit of the Deputy Superintendent, Maximum Security Jail, Nabha, dated 24.09.2020, asserts that there are 12 FIRs which were registered against the petitioner, although out of these 12 FIRs, he has been acquitted in six FIRs but in one of the cases he has been convicted i.e. FIR No.43, referred to above, where he is undergoing life imprisonment and there are five other criminal cases which are still pending trial against him. It is asserted that the prayer of the petitioner for grant of parole stands rejected by the District Magistrate, Moga, vide order dated 05.02.2020 (Annexure R-2/T). Referring to the said order, it has been asserted that there is every apprehension of the petitioner, if released on parole, of absconding as his co-accused, who is also a member of the gang to which the petitioner belongs i.e. Jaswinder Singh @ Kaka has already absconded. He is a dangerous convict and there is every likelihood to breach of security as well as law and order of the public and neither the Security Agency nor the Senior Superintendent of Police has recommended the case of the petitioner. Since he is related to gangsters Jaswinder Singh @ Kaka and Vicky Gonder, who, like the petitioner, are dreaded gangsters, he is not entitled to the concession of parole and his claim has rightly been rejected by the District Magistrate.

6. Having considered the submissions made by the learned counsel for the parties and on going through the records of the case, we are of the considered view that the petitioner, in the given facts and circumstances of the present case, is not entitled to the benefit of grant of parole for the reason that there are large number of criminal cases, which are registered against him and pending trial, apart from the one where he has been convicted for life. According to the reply filed by the respondents, petitioner is the head of a gang of criminals called the 'Dharu Gang' and related to the absconded co-accused namely Jaswinder Singh @ Kaka, who, when released on parole, absconded. He is also related to another gangster namely Vicky Gonder as per the report of Senior Superintendent of Police, Moga. The apprehension of the respondents that the petitioner is likely to abscond, if released on parole, cannot be said to be without any basis. The decision of the District Magistrate, Moga, is based upon the information/report received from the Security Agency as well as the Senior Superintendent of Police, Moga, on which reliance has been placed by him. The reasons which have been assigned for rejection of the claim of the petitioner, thus, cannot be said to be without any justification or basis.

7. The judgment of the Hon'ble Supreme Court, on which reliance has been placed by the learned counsel for the petitioner i.e. *P. Veera Bhaarithi's* case (supra) is misplaced as the said case relates to premature release of a convict, whereas the present case relates to parole. As regards *Jaswinder Singh @ Kaka's* case (supra) is concerned, in the

said judgment the Court in the given facts and circumstances of the case, found that the reasoning given by the District Magistrate was not sustainable. The said judgments, therefore, would not be of any help to the case of the petitioner.

8. In view of the above, we do not find any merit in the present petition and therefore, dismissed the same.

(AUGUSTINE GEORGE MASIH)
JUDGE

February 12, 2021
Harish

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No