

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

CRWP No.1464 of 2021

Date of Decision: September 30, 2021

Sukhraj Singh @ Nikka

...Petitioner

VERSUS

State of Punjab and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.B.S.Bhalla, Advocate
for the petitioner.

Mr.V.G.Jauhar, Sr. Deputy Advocate General, Punjab
for the respondent-State.

ARCHANA PURI, J.

The petitioner has invoked the writ jurisdiction of this Court, thereby making prayer for quashing/setting aside the impugned order dated 14.01.2021 (Annexure P-6) passed by respondent No.2-District Magistrate, Moga and further, the petitioner has also sought issuance of directions to the respondents to release him (petitioner) on parole for eight weeks to enable him to meet and look after his family, in accordance with entitlement under Section 3(1) (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962.

It is averred in the petition that the petitioner was convicted and sentenced to undergo imprisonment for a period of 20 years, besides imposition of fine, with default stipulation, in case FIR No.111 dated

11.09.2014, under Sections 302, 34 IPC and Section 25 and 27 of the Arms Act, Police Station Badni Kalan, District Moga. To challenge the impugned judgment of conviction and order of sentence, appeal has been filed.

It is further averred that petitioner had applied for eight weeks' parole along with Panchayatnama to the jail authorities under Section 3(1) (d) of the *ibid* Act to meet his family members and to look after the household affairs. The Panchayat strongly recommended release of the petitioner on parole. The Superintendent, District Jail, Barnala, as such, made recommendation for grant of parole and forwarded the same to District Magistrate, Moga. However, parole case of the petitioner was sent to SSP, Moga by the District Magistrate, Moga and after verification, SSP, Moga, did not recommend the parole case of the petitioner, thereby stating that in case, the petitioner is released on parole, there is apprehension of breach of peace and danger to the security of the State.

Further, it is averred that as per the provisions of the *ibid* Act, the petitioner is entitled to grant of parole to meet his family members and to look after his household affairs. The family of the petitioner consists of his old aged parents, his wife and three minor children (two daughters and one son). There is no other able male member in the family of the petitioner to look after his family and household affairs, as brother of the petitioner was killed by other party. It is also averred in the petition that parole case of the petitioner has been wrongly rejected. Thus, he has made a prayer for setting aside the impugned order dated 14.01.2021 and also sought directions to respondents to release him on parole.

Upon notice, learned State counsel has filed reply, which is in

Moga, wherein, the claim of the petitioner was parole has been resisted, as it is stated that release of the petitioner on parole, may disturb maintenance of law and order in the State and moreover, complainant Gamdoor Singh s/o Surjit Singh r/o Village Kussa, apprehends danger to his life and property. There is also apprehension of breach of public order and security of the State and on this account, the request of the petitioner for grant of parole has been declined.

We have heard learned counsel for the petitioner as well as learned State counsel and with their able assistance, perused the record.

The petitioner has sought grant of parole to enable him to meet his family and to look after the household affairs. Vide impugned order dated 14.01.2021 (Annexure P-6), the case of the petitioner for grant of parole was considered and Senior Superintendent of Police, Moga, had reported that there is danger to the peace/security of public order, if the convict is released on parole, as there is apprehension that the convict may run away during the parole period and moreover, opposite party Gamdoor Singh r/o village Kussa is apprehending danger to his life and his family. Also, it is stated that other two cases have already been registered against him, which are as herein given:-

- * *FIR No.89 of 2006 under Section 323, 324, 34, 148 and 149 IPC, P.S. Badhni Kalan.*
- * *FIR No.100 of 2014 u/s 307, 148, 149 IPC and 25 and 27 of the Arms Act, P.S. Badni Kalan (under trial).*

The Punjab Good Conduct Prisoner's (Temporary Release) Act, 1962, was enacted for temporary release of the prisoners, on account of their conduct, but on certain conditions. It is though a privilege granted by the

State to the prisoners, but however, it cannot be clipped for the vague reasons. The name of the Act itself suggests that in order to earn temporary release, the prisoner has to maintain good conduct, during his stay in the prison and furthermore, he has to behave properly during the period of parole and also not disturb the social peace.

Even though, in the impugned order, it is stated that there is apprehension that the convict may run away during the parole period and also there is danger to the peace/security of the public order, if the convict is released on parole because opposite party Gamdoor Singh is apprehending danger to his life and life of his family but however, it is pertinent to mention that there is nothing, as such, specified in the impugned order about the manner, in which the release of the petitioner poses threat to the peace/security of public order and in what manner, the authorities had reached to the conclusion about there being apprehension of the petitioner running away during the parole period. The reasons, so assigned, in the impugned order, are quite vague. Furthermore, simply the score of two other FIRs registered against the petitioner, also does not create such circumstances, thereby, apprehending danger to the peace/security of the public order. Even though, it is further claimed that complainant Gamdoor Singh is showing danger to his life and his family members from the convict-petitioner but it is quite vague assertion so made. Nothing as such, has been pointed, out as to how and in what manner, the complainant has apprehension, at the behest of the petitioner.

Nothing, as such, has been specified, either in the impugned order or in the reply that in what manner, the police authorities had reached

the conclusion of there being threat to the peace/security of the public order,

at the instance of the petitioner. As such, the reasons so given by the State, are quite vague.

Further, it is also necessary to point out that on similar grounds, the parole case of fellow convict namely Manpreet Singh @ Mani was declined but however, in CRWP No.10652-2020 decided on 29.07.2021, the impugned order declining benefit of parole to him, was set aside by this Court.

In the light of the aforesaid and in the given circumstances, the present petition, as such, is allowed and the petitioner is hereby ordered to be released on parole for a period of six weeks, subject to his furnishing bail/surety bonds to the satisfaction of releasing Court/Duty Magistrate concerned, within a period of seven days from today onwards.

(RITU BAHRI)
JUDGE

(ARCHANA PURI)
JUDGE

September 30, 2021

Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No