

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

CRWP-2116-2021 (O&M)
Date of decision: 15.12.2021

Nirmal Singh @ Nimma

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. G.S. Bajwa, for the petitioner.

Mr. H.S.Grewal, Addl. AG, Punjab.

(PROCEEDINGS THROUGH VC)

RITU BAHRI, J. (Oral)

Prayer in the present criminal writ petition is to release the petitioner on parole to meet his family by setting aside the impugned order dated 18.6.2020 (Annexure P-1).

As per reply filed by way of affidavit of Parvinder Singh, Superintendent, Central Jail, Amritsar on behalf of respondents No.1 to 3, the petitioner has undergone 5 years, 2 months and 1 day of actual sentence as on 6.10.2021. The case of the petitioner for parole has been rejected on the ground that the enquiry in this case was conducted by Deputy Superintendent of Police, Sub Division Attari and Deputy Superintendent of Police, Investigation Additional Charge Special Branch and Criminal Intelligence, Amritsar Rural. As per report, prisoner Nirmal Singh alias Nimma son of Amrik Singh along with his companions had committed murder of two young persons, who is a very clever and shrewd person and

correct. If the petitioner is released on parole, there can be threat to the security and maintenance of public order and his case for parole has not been recommended. A copy of non-recommendation-cum-rejection order passed by District Magistrate, Amritsar is also placed as Annexure R-2.

This aspect with respect to disturbance to Public Order in the State has also been considered by the Coordinate Bench of this Court in **Baljit Singh v. State of Punjab and others; CRWP-1077-2016** decided on 15.5.2017 while observing that the petitioner in that case will cause disturbance in public order cannot be made a ground to decline prayer for parole. In paragraph 18, the Division Bench observed as under : -

“18. The threat to security of the State is to be understood as an act which may arise from within or outside the State. It is generally understood as an act of aggression from outside, or militant and terrorists operations engineered by foreign agencies. It can also be effected by passing of classified information like documents, secrets, maps etc. to foreign countries or through undesirable foreign links. An act which poses a threat to the State is to be considered as a threat affecting the security of the State. 'Public order', however, is synonymous with public safety. It is something more than mere law and order. Every breach of peace does not lead to public disorder. Maintenance of public order is intended to prevent grave public disorder, which is not the same as maintenance of law and order. The latter is comparatively of a lesser gravity and in fact of local significance. An act which does not affect the public at large or has no impact on it, is not to be taken as

an act affecting maintenance of public order. The distinction between law and order and public order is one of degree and extent of reach of the act in question on society. In the case of breach of law and order it affects individuals directly involved as distinct from the public at large. This would raise a law and order problem only. The true test is the potentiality of the act in question. One act may affect some individuals and local persons while another though of a similar nature may impact the public at large. An act which disturbs the even tempo of life of the public at large affects the maintenance of public order. These aspects are to be considered by the competent authorities under Act while deciding to recommend or not to recommend the temporary release of a prisoner on parole and/or passing orders for temporary release by the competent authorities under the Act. The exercise is not to be lightly conducted and the competent authorities are to apply their mind on the basis of inputs received by them for recommending or passing an order as the case may be for temporary release of prisoners on parole.”

As per panchayatnama dated 26.12.2020 (Annexure P-3), he has an old mother and father in the family, a younger brother suffering from polio, a wife and a minor child. It is further mentioned in Annexure P-3 that if the petitioner is released on parole, then there will be no threat to the peace and law.

Keeping in view the judgment of Baljit Singh's case (supra),

PARITOSH KUMAR
2021.12.16 16:44
I attest to the accuracy of
this order

threat to the peace and law cannot be made ground to decline parole to the

petitioner and the above CRWP deserves to be allowed. Order dated 18.6.2020 Annexure P-1 is set aside and direction is given to the respondents to release the petitioner on parole to meet his family members for 4 weeks on furnishing of necessary bonds and sureties to the satisfaction of the District Magistrate concerned. The date of release and surrender shall be noticed by the releasing authority.

Writ petition stands allowed accordingly.

(RITU BAHRI)
JUDGE

(KARAMJIT SINGH)
JUDGE

December 15, 2021

Paritosh Kumar

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