

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-4209-2021

Date of Decision:08.09.2021

Surjit

...Petitioner

Versus

State of Punjab and another

...Respondents

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

Present: Ms. Harshita, Advocate,
for the petitioner.

Mr. H.S. Sullar, DAG, Punjab.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

SANT PARKASH, J.

Instant petition has been filed under Article 226/227 of the Constitution of India for issuance of directions to the respondents for grant of parole to the petitioner for a period of four weeks on the grounds of carrying out the eye operation of his wife and for repair of the house.

The petitioner was convicted and sentenced in FIR No.94 dated 11.10.2016, under Sections 302/323/325/148/149 IPC, Police Station Sherpur, District Sangrur and accordingly, he has been convicted and sentenced to undergo life imprisonment. 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 grant of parole before the concerned jail authorities on the ground of illness of his wife and for the repair of house as there is no other person to look after his family members. She argues that the Superintendent of Police, Sangrur has wrongly not recommended the case of the petitioner for grant of parole merely on the ground that the petitioner could jump the parole.

On the other hand, learned State counsel strongly opposes the prayer made by learned counsel for the petitioner and prays for dismissal of instant petition.

We have given our thoughtful considerations to the matter. As already noticed, the petitioner is undergoing life imprisonment for having committed offences punishable under Sections 302/34, 323/34 and 325 IPC. During his incarceration in jail, he has sought temporary release on the grounds of carrying out the eye operation of his wife and for repair of the house in terms of Section 3(1) (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, which reads as under: -

“3. Temporary release of prisoners on certain grounds:-

(1) The State Government may, in consultation with the District Magistrate 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: -

(a) to (c) xxxxxx

(d) it is desirable to do so for any other sufficient cause.”

In terms of Section Section 3(2)(b) where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1) the period for which a prisoner may be released shall be determined by the State Government so as not to exceed four weeks. Section 6 of the Act

provides that “consultation with District Magistrate is not necessary where prisoners are not to be released”. Sub-section (ii) of Section 6 reads as follows:-

“6 (ii). No prisoner shall be entitled to be released under this Act, if on the report of the District Magistrate, where consultation with him is necessary, the State Government or an officer authorized by it in this behalf is satisfied that, that his release is likely to endanger the security of the State or maintenance of public order.”

In view of the aforesaid provisions of law, it is crystal clear that while considering the request of the petitioner for grant of parole, discretion has been bestowed upon the concerned Officer/State Government. It clearly indicates that the release on parole of a convict cannot be claimed as a matter of right as the legislature has used the word 'may' not 'shall'.

From the perusal of the case file, it would be revealed that the petitioner is undergoing life imprisonment for having committed offences punishable under Sections 302/34, 323/34 and 325 IPC. It would be further revealed that his two sons are also undergoing imprisonment in the said case. With this backdrop, the case of the petitioner has not been recommended by the Superintendent of Police, Sangrur while apprehending danger to the life of the complainant upon releasing the petitioner on parole. The petitioner committed a heinous crime and if such type of convict is enlarged on parole, there is every possibility that he can misuse the concession of parole. Moreover, there is no specific record regarding medical condition of the petitioner's wife requiring the presence of the petitioner.

Otherwise also, it is the subjective satisfaction of the authority

concerned to evaluate the circumstances seeking parole. Unless and until some arbitrariness or malafide is apparent in the order of the said authority, only then, this Court should intervene under Article 226 of the Constitution of India.

In view of the above, we do not find any reason to interfere in the matter as the same has been considered after taking into consideration all the facts collected for considering the request of the petitioner for releasing him on parole. Accordingly, the present criminal writ petition is dismissed.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

08.09.2021

mks

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO