

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

CRWP-4367-2021

DATE OF DECISION:-20.05.2021

BINDER KAUR

...PETITIONER...

V.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS...

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

Present: Ms. Amrinder Kaur, Advocate,
for the petitioner.

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

SANT PARKASH, J.

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

Prayer in this petition under Article 226/227 of the Constitution of India is for quashing the impugned order dated 09.10.2020 (Annexure P-2) passed by respondent No.2, vide which, prayer of the petitioner for grant of 8 weeks' parole has been rejected, without assigning any reasons. With further prayer to grant 08 weeks parole.

The petitioner was tried in FIR No.41, dated 09.08.2010, under Sections 302, 323 and 34 IPC, Police Station City Phul, District Bathinda, and accordingly, he has been convicted and sentenced to undergo life imprisonment, vide judgment of conviction and order of sentence dated 03.08.2011. 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 is suffering from HIV/AIDS. Medical record in this regard is annexed as Annexure P-1. Moreover, the husband of the petitioner, who was also co-accused along with her, has already expired because of HIV/AIDS. The condition of the petitioner is very critical and there is nobody in jail to take care of her.

Learned counsel for the petitioner further submits that the petitioner had applied for grant of 08 weeks parole, but her case was rejected by respondent No.2 vide order dated 09.10.2020 (Annexure P-2), without assigning any cogent reason. The order passed by respondent No.2 is liable to be set aside as the same is non-speaking.

Learned State counsel has filed short reply by way of affidavit of Rajdeep Singh, Deputy Superintendent Central Jail Bathinda alongwith medical report (Annexure R-1) in the Court today and the same is taken on record.

Perusal of short reply reveals that the petitioner is HIV positive and is still on HIV treatment.

Heard. If glanced through, perusal of the impugned order dated 09.10.2020 (Annexure P-2) would reveal that it is not only cryptic but totally non-speaking one. While rejecting the prayer of the petitioner for parole, respondent No.2 has not assigned any cogent and plausible reason. It has been merely mentioned in the impugned

order that in view of the report submitted by SSP, Bathinda, the concession of parole cannot be granted. It lacks total application of mind on the part of the authority concerned in rejecting the request.

Taking into consideration the totality of the circumstances, the impugned order dated 09.10.2020 (Annexure P-2) is hereby quashed with a further direction to respondent No.2-District Magistrate-cum-Deputy Commissioner, Bathinda to pass a well reasoned and speaking order on the representation of the petitioner, within seven days, from the date of receipt of certified copy of this order.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

20.05.2021

sonika

whether speaking/reasoned:
whether reportable:

Yes/No
Yes/No