

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRWP-5919-2021 (O&M)
Date of Decision: July 19, 2021

Satish Kumar

... Petitioner

Versus

U.T. Chandigarh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Gurbir Singh Sandhu, Advocate,
for the petitioner.

Mr. Prateek Gupta, APP, U.T., Chandigarh.

Vivek Puri, J.

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

Short reply on behalf of the respondents is taken on record.

The petitioner is confined in Model Jail, Chandigarh and has preferred the present petition under Article 226/227 of the Constitution of India read with Section 3 of Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short 'the Act') seeking his release on parole and further quashing the order dated 17.06.2021 (Annexure P/3) passed by respondent no.2 – Inspector General of Prisons, Chandigarh, whereby his request for parole has been met with refusal.

The petitioner has been convicted under Sections 363, 366, 376(2)(n) IPC and 6 of POCSO Act and sentenced to undergo rigorous imprisonment for a period of 12 years in the case pertaining to FIR No. 48, dated 25.01.2014, Police Station Mani Majra, Chandigarh in terms of judgment of conviction dated 29.07.2019 and order of sentence dated 05.08.2019 passed by learned Additional Sessions Judge-cum-Judge Special Court, Chandigarh.

Criminal appeal preferred by the petitioner is pending before this Court.

We have heard the learned counsel for the parties.

Learned counsel representing the U.T., Administration has argued that the claim of the petitioner for 90 days special parole is not available as his case is not covered by the guidelines issued by the High Powered Committee.

Learned counsel representing the petitioner has stated that he does not press his claim for release on special parole and restricts his claim for release on parole as per the provisions of Section 3 of the Act.

The petitioner has sought parole on the score that he has to meet his family members, consisting of two daughters and wife, and to take care of family needs. The case of the petitioner has been rejected only on the score that as per the report received from the local police, the petitioner is involved in heinous crime cases and chances are there to commit crime of similar nature, if he released on parole.

It may be mentioned here that on the similar score, earlier the parole of the petitioner was declined and in CRWP-8449-2020, the claim of the petitioner for release on parole was accepted in terms of judgment dated 29.10.2020 and the following observations were circumscribed therein:-

“However, the prayer of the petitioner has been declined by the respondents on the report of the local police apprehending that the petitioner may commit crime of a similar nature. It is to be noted that the earlier also, the petitioner had availed parole twice for four weeks’ each and surrendered back to the jail authorities after availing it. There is nothing on record to show that he misused the concession granted or indulged in any unlawful activity during this period. Therefore, the observation made by the authorities lacks any reasonable foundation.”

There is nothing to suggest that the petitioner had misused the concession of parole at any other earlier instance and merely on the score that there is apprehension that the petitioner may commit crime cannot be termed to be a sufficient ground to decline the parole case of the petitioner.

In these circumstances, we are inclined to accept the prayer made. Accordingly, the instant petition is allowed, the impugned order dated 17.06.2021 is quashed and the petitioner is granted parole of four

weeks on his furnishing surety bonds to the satisfaction of the competent authority / Duty Magistrate. The petitioner shall surrender before the jail authorities on the date and time to be notified by the releasing Court / Duty Magistrate.

[TEJINDER SINGH DHINDSA]
JUDGE

[VIVEK PURI]
JUDGE

July 19, 2021

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Whether speaking / reasoned : Yes / No

Whether reportable : Yes / No