

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

CRWP-6058-2021
Date of Decision: 07.07.2021

BABBU KHAN

....PETITIONER..

Versus

STATE OF PUNJAB AND ORS.

....RESPONDENTS

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

Present : Mr. A.P. Kaushal, Advocate,
for the petitioner.

Mr. IPS Doabia, Additional Advocate General, Punjab.

SANT PARKASH , J.

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

Instant petition has been filed under Article 226/227 of the Constitution of India read with Section 3 of Punjab Prisoners Good Conduct Act for issuance of a writ in the nature of mandamus directing respondent No.3 to release the petitioner on parole for meeting her family members and to take care of their needs. And further for setting aside order dated 23.12.2020 (Annexure P-2) passed by respondent No.2, whereby case of the petitioner for seeking parole has been rejected.

The petitioner was tried in FIR No.48 dated 11.05.2018, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985,

Police Station Sadar Faridkot, for having found in conscious possession of 3500 intoxicant tablets and accordingly, she had been convicted and sentenced to undergo rigorous imprisonment for 12 years vide judgment dated 21.01.2020. 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 08 weeks parole as per the provisions in the Act and his case was sent to the District Magistrate Moga, after completing all the formalities. But the parole case of the petitioner has been rejected vide order dated 23.12.2020 (Annexure P-2), on the ground that there can be danger to the security of the State and there is apprehension that she may abscond and indulge in sale of drugs.

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

After having heard learned counsel for the parties and perusing the paper book, this Court is of the considered opinion that the authority rejecting the parole has exercised its jurisdiction on the basis of the facts collected for considering the request of the petitioner for releasing her on parole. It has been specifically mentioned in the impugned order (Annexure P-2) that there can be danger to the security of the State. If such type of convict is enlarged on parole, there is every apprehension that she would indulge herself in the similar activity and would abscond.

Moreover, the ground taken in the petition i.e. to meet with her family

members and to take care of their needs does not appeal to logic at all and cannot be said to be justifiable ground for granting the concession of parole and taking into consideration the fact that the contraband recovered from the petitioner falls under commercial quantity.

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 merit in the instant petition and same is accordingly dismissed.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

07.07.2021
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whether speaking/reasoned: Yes/No
whether reportable: Yes/No