

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

CRWP No. 7185 of 2021 (O&M)

Date of decision: 01.11.2021

Gurjepal Singh @ Gurja

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. N. S. Kamboj, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 05.04.2021, passed by respondent No. 2-Deputy Commissioner-cum-District Magistrate, Moga, vide which the request of the petitioner for grant of 08 weeks' parole has been declined on the ground that petitioner is a habitual offender and there is a possibility that he can abscond if he is granted parole.

The brief facts of the case are that the petitioner is convicted for 07 years in FIR No. 55 dated 05.06.2016, under Sections 302, 323, 149 and 148 of the IPC, registered at Police Station Badhni Kalan, District Moga by the Additional Sessions Judge, Moga, vide judgment of conviction and order of sentence dated 24.01.2018.

Learned counsel for the petitioner submits that apart from the present case, the petitioner stands convicted in two more FIRs for 03 years, which were registered under Sections 452, 427, 323, 325, 506, 148, 149 of the IPC and he has already undergone the sentence in these cases.

Learned counsel further submits that in the present case, out of total 07 years of rigorous imprisonment, awarded by the trial Court, the petitioner has undergone a period of 05 years, 03 months and 11 days and the request of the petitioner for grant of parole has been declined on hyper technical grounds.

Learned State counsel has filed the reply along with the custody certificate. In reply, it is stated that petitioner has applied for grant of 08 weeks' parole under the provisions of Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 and the same was initiated by the Superintendent, Central Jail, Ferozepur, vide letter dated 23.04.2020 for further action and after seeking a verification report from SSP, Moga, the parole was finally rejected, vide impugned order dated 05.04.2021 passed by respondent No. 2.

A perusal of the impugned order shows that even on earlier occasion, the petitioner has filed a petition bearing CRWP No. 10634 of 2020, wherein also his request for grant of parole was rejected, vide order dated 20.05.2020. This Court, while disposing of the said petition, had directed the official respondents to reconsider the request of the petitioner for parole and thereafter, fresh recommendation was made for release of the petitioner on parole considering the directions of this Court. However, SSP, Moga has informed that on account of registration of other cases, there is an apprehension to the life and liberty of the petitioner/convict and there is a possibility that he may abscond, therefore, there is a serious threat to the State security and maintenance of public law and order.

After hearing learned counsel for the parties, I find that the case made out by the SSP, Moga is totally misplaced.

Admittedly, as per reply and custody certificate, the petitioner has already undergone the sentences in two other cases, wherein he was convicted for 03 years and in the present case, he has undergone a period of 05 years, 03 months and 11 days out of total sentence of 07 years awarded by the trial Court. The apprehension shown by the SSP, Moga is that if the petitioner is granted parole, there is a threat to his own life and liberty, however, there is nothing on record to suggest that before seeking such opinion, the SSP, Moga has obtained any opinion from the village Panchayat or from the other inhabitants of the village that there is any threat to the life and liberty of the petitioner.

Accordingly, the present petition is allowed and the impugned order is hereby set aside. Respondent Nos. 2 and 3 are directed to release the petitioner on 08 weeks' parole, on his furnishing requisite surety bonds.

01.11.2021*Waseem Ansari***(ARVIND SINGH SANGWAN)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*