

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

CRWP NO.7210-2021

Date of Decision: 05.08.2021

SAHIL

....PETITIONER..

Versus

STATE OF HARYANA AND ORS.

....RESPONDENTS

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

Present : Mr. Minkal Rawal, Advocate,
for the petitioner.

Mr. Vivek Saini, Addl.A.G., Haryana.

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 for issuance of a writ in the nature of certiorari for setting aside the impugned order dated 08.07.2021 (Annexure P-4) passed by respondent No.3, whereby, the application of the petitioner seeking parole, has been dismissed. Further prayer is for issuance of direction to the respondents to release the petitioner on parole for a period of four weeks for the purpose of house repair and agricultural work.

The petitioner was tried in FIR No.27 dated 19.09.2016, under Sections 148, 149, 302, 364, 506 IPC and Section 25 of the Arms Act, Police Station Sanoli, Panipat and accordingly, he has been convicted and

sentenced for 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 is the only son of his parents. His parents are very old and are completely dependent on the petitioner. His father is suffering from spinal injury. The condition of his house is also bad, which needs immediate repair. There is 2-3 acres of land in the name of his father and petitioner being the only son has to cultivate the same as his father is suffering from spinal injury. Except the aforesaid land, petitioner's family has no other source of income. He further submits that earlier, the petitioner was released on parole for 04 weeks for agricultural purpose and was directed to surrender before the jail on 06.04.2021, but he surrendered on 07.04.2021 as he was tested corona positive. During the aforesaid period of parole, a false case was got registered against him on behalf of a fruit vendor on some minor dispute, in which, he was released on bail on 06.04.2021. He has not committed any jail offence during his custody.

Learned counsel further submits that earlier the petitioner moved an application before the Superintendent District Jail, Panipat for seeking parole for repair of the house and his case was sent to the Divisional Commissioner, Karnal, Division, Karnal, after completing all the formalities. But the parole case of the petitioner has been rejected vide order dated 08.07.2021 (Annexure P-4), on the basis of reports of Superintendent of Police, Panipat and Superintendent Jail, Panipat and that the District Magistrate, Panipat has not recommended to release the

convict on the grounds that the ownership of the house is not in the name of the petitioner as the same is in the name of his parents; the petitioner lives in a joint family, therefore, his parents are capable of undertaking the repair work; earlier, the petitioner was released on parole for 4 weeks on 08.03.2021 for agricultural work and was directed to surrender before the Jail Authorities on 06.04.2021, but he surrendered one day later i.e. on 07.04.2021; during the aforesaid period of parole, he was again arrested in another FIR No.195 dated 23.03.2021, under Sections 323, 325, 452, 506/34 IPC, Police Station Chandini Bagh, District Panipat, in which, he is on bail and further if such type of convict is released on parole, there is a danger to the public order.

In support of his averments, learned counsel for the petitioner has relied upon the judgments rendered by this Court in **CRWP No.2156 of 2019**, titled as **"Jeet Singh vs. State of Punjab and others"**, **CRWP-1143-2020**, titled as **"Amritpal Singh @ Amba vs. State of Punjab and others"**, and **CWP No.14543 of 2019**, titled as **"Kuldeep vs. State of Haryana and others"**.

On the other hand, learned State counsel strongly opposes the submissions made by learned counsel for the petitioner. He further submits that during the period of parole, the petitioner was arrested in another FIR No.195 dated 23.03.2021. As such, he 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 him on parole. It has been specifically mentioned in the impugned order (Annexure P-4) that the ownership of the house is not in the name of the petitioner. The house is in the name of the parents of the petitioner. The petitioner lives in a joint family, therefore, his parents are capable of undertaking the repair of the house. In fact, as per the directions of the court below, the petitioner had to surrender on 06.04.2021 but he surrendered on 07.04.2021 i.e. one day later and during the aforesaid period of parole, he was arrested again in FIR No.195 dated 23.03.2021. If such type of convict is enlarged on parole, there is danger to the maintenance of public order. Moreover, the ground taken in the petition i.e. to repair the house and agricultural purpose does not appeal to logic at all and cannot be said to be a justifiable ground for granting the concession of parole especially taking into consideration the fact that the parents of the petitioner are residing in the same house and are capable of undertaking the repair of the house and agricultural work.

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.

So far as the judgments relied upon by the learned counsel for the petitioner are concerned, there is no dispute about the observations made therein. However, on close perusal of the cited judgments, none of them has been found to be of any help to the petitioner being distinguishable on facts.

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

05.08.2021
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whether speaking/reasoned: Yes/No
whether reportable: Yes/No