

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-869-2021

DATE OF DECISION: JULY 8, 2021

MAHINDER SINGH @ MINTA	...PETITIONER
VERSUS	
STATE OF PUNJAB & OTHERS	...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. J.S. BAINS, ADVOCATE FOR THE PETITIONER.
MR. RAMANDEEP SANDHU, SR. DAG, PUNJAB.

MANOJ BAJAJ, J.(ORAL)

Petitioner has filed this writ petition under Article 226/227 Constitution of India to challenge the order dated 4.4.2020 (Annexure P-1), passed by District Magistrate, Tarn Taran, whereby his request for parole was rejected and further for grant of parole for Eight weeks to enable him to meet and take care of his family members.

Briefly the facts of the case are that the petitioner faced trial in case FIR No.183 dated 24.10.2013 under Sections 18, 61, 85 NDPS Act, Police Station Sirhind, District Fatehgarh Sahib and was convicted through judgement dated 30.3.2019, passed by Special Judge, Fatehgarh Sahib and a sentence of 10 years was imposed upon him. As per pleadings, aggrieved against the said judgement of conviction, the petitioner preferred CRA-S-1549-2019 which is pending adjudication before this Court. The petitioner made a request for grant of parole for a period of eight weeks to enable him to meet his family members. However, the same was rejected by the District Magistrate, Tarn Taran (respondent No.4) on 4.4.2020 (Annexure P-1) on the ground that the petitioner is likely to abscond in case the concession of parole is extended to him. In support of his claim, the petitioner has relied

upon a certificate issued by the Gram Panchayat, Sabra, District Tarn Taran, wherein it is mentioned that his wife remains sick and he be granted parole to take care of his children for few weeks.

Pursuant to notice of motion issued on 1.2.2021, reply by way of affidavit of Baljeet Singh, PPS (Officiating), Superintendent, Central Jail, Amritsar has been filed. As per reply, the reasons mentioned in the impugned order have been reiterated and it has been prayed that the petition be dismissed.

Learned counsel for the petitioner has argued that the petitioner has not been released on parole till date after his conviction and the reason given by respondent No.4 in the impugned order is based on presumption and is not substantiated with any convincing material. He has drawn the attention of the Court to the custody certificate dated 6.4.2021 (Annexure R-1) and submitted that except for the above mentioned FIR, the petitioner is not involved in any other case, muchless, of similar nature. He prays that the impugned order be set aside and the petitioner be released on parole.

Learned State counsel has opposed the above prayer made by the petitioner, but has not disputed this fact that the petitioner is not involved in any other case. He has argued that order by respondent No.4 has been passed after considering the report sent by Sr. Superintendent of Police, Tarn Taran.

After hearing learned counsel for the parties, this Court is of the opinion that the impugned order has been passed by respondent No.4 on the basis of the report dated 13.1.2020, furnished by Sr. Superintendent of Police, Tarn Taran and as per the report, in case the convict is released on

parole, he can abscond. It has been noticed in the impugned order that the petitioner has been doing smuggling and is likely to engage in similar activity in case he is extended the concession of parole. This observation is not supported with any substantive material to indicate that he would again indulge into the illegal activity. It needs to be noticed here that during trial the petitioner was released on regular bail w.e.f. 7.5.2014 and enjoyed the said concession till his conviction. During this period of approximately five years, the petitioner never misused the said concession, therefore, at this stage, there does not seem to be any possibility that in the event of petitioner's release on parole, he would abscond or would indulge in smuggling.

The object of granting parole is to allow the convict (prisoner) to connect with his family and society, therefore, considering the facts and circumstances of this case as well as other attending circumstances, this Court is of the opinion that the petitioner has made out a case for his release on parole.

Consequently, the petition is allowed and the impugned order dated 4.4.2020 (Annexure P-1) is set aside. The petitioner shall be released on parole for Eight weeks from the date of his release, subject to his furnishing necessary surety bonds to the satisfaction of the competent authority. The petitioner shall surrender before the Jail Authorities on the day of expiry of parole period by 5.00 p.m.

July 8, 2021
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No