

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

CRWP-9227-2020

Date of Decision: 17.02.2021

Mangal Singh

... Petitioner

Versus

State of Punjab

... Respondent

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON'BLE MR. JUSTICE VIVEK PURI**

Present: Mr. Arshdeep Singh Brar, Advocate,
for the petitioner.

Mr. Sandeep Vermani, Addl. Advocate General, Punjab.

JITENDRA CHAUHAN, J. (ORAL)

The matter has been taken up through video-conferencing in the light of the pandemic COVID-19 situation and as per instructions.

Prayer in the present petition filed under Article 226 of the Constitution read with Section 3 and 4 of Punjab Good Prisoners (Temporary Release) Act, 1962 is for grant of Parole to the petitioner on the ground of ailments being suffered by his wife Harpreet Kaur. The petitioner was convicted under Section 22 of NDPS Act in FIR No. 179 dated 17.12.2014 and was sentenced to undergo rigorous imprisonment for 14 years.

Status report by way of affidavit of Superintendent, Central Jail, Faridkot and report of Civil Surgeon, Amritsar have been circulated in the Court today through E-mail and the same are taken on record.

Learned counsel for the petitioner submits that the petitioner is in custody since long and he is undergoing the period of sentence without

any default on his part in the jail. Wife of the petitioner, namely, Harpreet Kaur is suffering from severe uterus bleeding with severe HNT and chest pain. He refers to medical certificate dated 05.09.2020 (Annexure P-1) to contend that wife of the petitioner is at a critical stage and needs further treatment. Gram Panchayat of village Basarke Gilla, District Amritsar has also recommended the release of petitioner on parole.

On the other hand, learned State counsel opposes the prayer made by the petitioner.

Heard.

The parole has been sought on the ground that wife of the petitioner is suffering from health issues. The wife of the petitioner has been examined by a Medical Board at Civil Hospital, Amritsar. The report indicates that she is suffering from gynaecological ailments and requires surgical intervention. As such, it is amply clear that the wife of the petitioner has to undergo surgery and she requires attendant at the time of surgery and for post-surgical recovery.

The request of parole was declined by the District Magistrate, Amritsar on the score that the antecedents of the petitioner are not clear and there is every likelihood of his indulging in drug trade in case he is released on parole, there is danger to State security and maintenance of public order.

In ***Chand Singh v. State of Punjab 1996(3) RCR 230***, this Court held as under:

“It is the duty of the District Magistrate and the Superintendent of Police to maintain law and order in the area. If there is an apprehension for breach of peace, it is the duty of the police and the District Magistrate to look into the matter and give protection to the people who are expecting such danger from, the release of the accused on

parole. The law laid down is that no body can be released if his release is detrimental to the security of the country or there is likelihood that his release in any way will endanger the security or integrity of the country. The mere allegation that there is apprehension of breach of peace is no criteria on the basis of which the Inspector General of Prisons can refuse the release of the petitioner on temporary parole for a specified period as laid down in the section."

We feel that the likelihood of involvement in any criminal activity while on parole, would not be a sufficient ground to decline the temporary release on parole as mere likelihood of committing crime cannot be termed to be a real and genuine apprehension or threat to the security of the State or to the maintenance of public order. Furthermore, the affidavit of the Superintendent, Central Jail, Faridkot or the order vide which the parole has been declined to the petitioner does not indicate that the conduct of the petitioner in jail is not satisfactory and the reports are not good.

In such circumstances, we are of the view that the benefit of temporary release by way of parole cannot be declined to the petitioner on that score.

Keeping in view the health condition of the wife of the petitioner, the present petition is allowed and the petitioner is granted six weeks' parole, subject to his furnishing indemnity bond in the sum of ₹ 50,000 with two local sureties of the like amount 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. However, still in deference to the apprehension expressed by the learned State counsel, it is ordered that the petitioner shall

not leave his village without written permission of this Court during the period of parole.

[JITENDRA CHAUHAN]
JUDGE

[VIVEK PURI]
JUDGE

17.02.2021

Whether speaking/reasoned :< *Yes / No*

Whether reportable :< *Yes / No*