

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

CRWP No.9254 of 2020 (O&M)

Date of Decision: June 07, 2021

Ravdeep Kaur

...Petitioner

VERSUS

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.Onkar Singh Batalvi and
Mr.Paramjit Singh Bajwa, Advocates
for the petitioner.

Mr.Harmeet Singh Grewal, Addl. Advocate General, Punjab
for the respondent-State.

Ms.Kanika Ahuja, Advocate
for the complainant.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the
light of COVID-19 pandemic.

The petitioner has invoked the writ jurisdiction of this Court,
thereby making a prayer for issuance of mandamus, directing the
respondents to release the petitioner on parole for a period of six weeks and
also sought issuance of certiorari for quashing the order dated 03.09.2020
passed by the District Magistrate, Patiala.

The petitioner along with the fellow accused was convicted and
sentenced vide judgment/order of sentence dated 30.03.2012, in case

bearing FIR No.321 dated 14.10.2005 under Sections 120-B, 302, 34, 109 and 115 IPC, Police Station Civil Lines Patiala. Consequently, petitioner is undergoing life imprisonment in Central Jail, Patiala,.

It is averred in the petition that right from the date of involvement of the petitioner in the aforesaid case, she is continuously confined behind the bars. She had applied for grant of parole for six weeks to the concerned authority. The Senior Superintendent of Police, Patiala, submitted the report to the District Magistrate, Patiala, to the effect that police has no objection and there is no apprehension of disturbance of peace in the area. Thereafter, another report was also submitted by the police authorities, thereby recommending grant of parole to the petitioner. However, vide impugned order dated 03.09.2020, the District Magistrate, Patiala, declined the parole to the petitioner.

Learned counsel for the petitioner has submitted that request for grant of parole has been wrongly declined by the District Magistrate, Patiala. In fact, it could be declined by the authorities only on the ground mentioned under Section 6 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, i.e. when her release is likely to endanger security of the State Government or maintenance of public order. In this regard, he has placed reliance upon the judgment passed by this Court in **CRM-M-34013-2009**, titled as **Varun @ Gullu vs. State of Haryana and others**, decided on 26.04.2010.

On the other hand, learned State counsel has resisted the claim of the petitioner. He submits that in the impugned order, the District Magistrate, Patiala, has taken into consideration various circumstances, vis-

declined.

It is pertinent to mention that during the pendency of the proceedings, when the custody certificate was produced, in pursuance of the order dated 16.03.2021, it was observed by this Court that petitioner was earlier released on two weeks' emergency parole on 06.12.2014 and was due to surrender on 21.12.2014 but she misused the concession of parole and was arrested on 04.02.2015 from Nepal border, allegedly along with certain fake documents. In these circumstances, the Superintendent of Police, who had recommended the case of the petitioner for parole, was directed to file an affidavit detailing the circumstances, which led to the recommendation of the parole case of the petitioner.

Thereupon, Sh.Varun Sharma, IPS, Superintendent of Police (City), Patiala, in compliance of the aforesaid order, had furnished an affidavit, wherein, it is stated about the petitioner to have been earlier released on emergency parole but she had not surrendered before the jail authorities, on expiry of the parole period. Rather, she evaded the process of law and was apprehended from Nepal border and the same resulted into registration of another FIR against the petitioner. However, keeping in view the directions given by this Court in **CRM-M-34013-2009** and also about deferment of parole plea for a period of one year in the circumstances of overstaying of a prisoner released on parole, as observed in **CRM-M-32124-2008**, it was stated in the affidavit that the case of the petitioner for release on parole was considered and recommendation for extending parole to the petitioner, as such, was made.

The remission and parole are not the vested rights of the

prisoners. In fact, these are the privileges granted by the State to the convicted prisoners. Therefore, a convict prisoner cannot claim these two privileges as his vested rights. There is a difference between right and privilege. Rights are classified under two categories of either, being a fundamental right under the Constitution, or a statutory right granted by the Statute. On the other hand, a privilege is granted by the State under certain conditions and can equally be taken away by the State. The privilege can be given on certain specific grounds. Parole is a part of reformatory theory of punishment. It is not necessary that all the convicts must have this privilege extended to them. These benefits can be refused, in case, refusal is based on intelligible differentia and has a nexus to the object of the Rules. A refusal cannot be violative of Article 14 of the Constitution of India. A prisoner may be released temporarily, by an officer appointed in this behalf by the State Government, in case, it is desirable for a sufficient cause.

The Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, was enacted for temporary release of prisoners, on account of their conduct, but on certain conditions. The name of the Act itself suggests that in order to earn temporary release, the prisoner has to maintain good conduct, during his stay in the prison and furthermore, he has a duty to behave properly during the period of parole and also he is not supposed to disturb social peace.

However, from the material brought forth, it is evident that earlier petitioner had filed CRWP-1047-2016 decided on 07.12.2016, for seeking her release on parole. While considering the said plea of the petitioner, various observations, relating to her conduct, were made by the

petitioner, consequent to her release on parole, at earlier time, becomes apparent, and the same in verbatim, are reproduced herein:-

“In the present case, the petitioner had admittedly not surrendered on 21.12.2014 before the jail authorities on expiry of the period for which she was earlier released on parole. Before that on 15.12.2014, she was found missing from her residence, i.e. House No.19-A, Nihal Bagh, Patiala. Ultimately, when she did not return to the jail on 21.12.2014, FIR No.123 dated 22.12.2014 under Sections 8 and 9 of the Act was registered against her at Police Station Lahori Gate, Patiala. With great hardships, the police was able to arrest her from Nepal border and after being brought to Patiala, she was sent to the jail. The Assistant Inspector General of Police, CID (Zonal), Patiala has also reported that in case she is released on parole, she can go into hiding or conceal herself as was done by her earlier or even make an attempt to leave the country illegally. The Senior Superintendent of Police, Patiala has also not recommended her case for release on parole, she could cause harm to the family members of deceased Vijay Singh, a member of superior judiciary of Punjab or may try to escape from the country. It may also be worthwhile to mention here that ASI Amarjit Singh, CIA Staff Patiala in his statement recorded by the police under Section 161 Cr.P.C. in case FIR No.123 dated 22.12.2014 has stated that on 3.2.2015, the petitioner was arrested by SI Shivinder Dev from Chaitti crossing, ITI, Kashipur and from her possession one bogus voter-card in the name of Arpita Jain, wife of Sushil Jain, resident of House No. 734, New Gopal Nagar, Ward No.6, Jalandhar which bore the photograph of the petitioner was recovered.

From the search of the bag which was in her possession, a sum of Rs.12,80,000/- of the denomination of Rs.1,000/- each, two gold coins, diamond and gold ornaments, weighing about 1kg.343 grams and stitched clothes were recovered. From the aforementioned circumstances, this Court is of the view that in case the petitioner is released on parole, once again, she is likely to leave the country in an illegal manner and she may also cause some harm to the family members of the deceased. Therefore, it would not be appropriate to accept her request for release on parole.

The petition is without any merit and, therefore, dismissed.”

The perusal of the custody certificate, which has been brought

on record, reveals that the petitioner was released on two weeks' emergency parole on 06.12.2014 and she was due to surrender in the jail on 21.12.2014, after availing emergency parole but she did not surrender herself and escaped from the parole. She was arrested by the police officials of P.S. Lahori Gate, Patiala, by lodging **FIR No.123 dated 22.12.2014, under Sections 8 and 9 of the Punjab Good Conduct Prisoners (Temporary Release) Act and Sections 468 and 471 IPC** and she was admitted in jail as under trial on 06.02.2015 and as convict on 09.02.2015.

As such, it is evident that while the petitioner enjoyed earlier parole granted to her on 06.12.2014, she evaded the process of law and did not surrender before the jail authorities, after the expiry of the period of parole, on the requisite date. Resultantly, FIR No.123 dated 22.12.2014 under Sections 8 and 9 of the *ibid* Act, Police Station Lahori Gate, Patiala, was registered. It was only thereafter that the petitioner was arrested from Nepal border along with fake documents.

In fact, in **CRWP-1047-2016** titled as ***Ravdeep Kaur vs. State of Punjab*** and others, reference, has also been made to the statement got recorded by ASI Amarjit Singh, CIA Staff, Patiala, during the course of investigation of case **FIR No.123 dated 22.12.2014**, wherein, he had stated about the petitioner to have been arrested from Chaitti crossing, ITI, Kashipur and from her possession, one bogus voter card in the name of Arpita Jain, wife of Sushil Jain, resident of House No.734, New Gopal Nagar, Ward No.6, Jalandhar, which bore the photograph of the petitioner was recovered. In fact, from the search of the bag, which was in her possession, a sum of Rs.12,80,000/- along with diamond and gold

ornaments, to the extent of 1.343 kgs. as well as stitched clothes were recovered.

Looking at this conduct, it cannot be said that it is a simpliciter case of overstaying of the parole period. Rather, it speaks volumes about the petitioner having devious plan to evade her further detention in the jail, in pursuance of conviction imposed by the Court. Precisely, on this account, it was earlier held by the Court that there is likelihood of the petitioner, leaving the country in an illegal manner and she may also cause some harm to the family members of the deceased and thus, her petition for grant of parole was dismissed.

In the affidavit, filed by Superintendent of Police(City), Patiala, in compliance to the order dated 16.03.2021 passed by this Court, he had stated about having placed reliance upon the directions passed by this Court in **CRM-M-34013-2009** and also about the observations made by this Court in **CRM-M-32124-2008**, with regard to deferment of parole plea for a period of one year, while considering the circumstances of overstay of prisoner, released on parole. However, it is pertinent to mention that facts and circumstances of the present case, are distinguishable from the facts and circumstances, under which, aforesaid directions were given. The case of the petitioner is not a simpliciter overstay of the parole period. In fact, the spot from where the petitioner was arrested and the manner in which she was arrested with fake documents, speaks volumes about her intention to flee away by misusing the benefit of parole granted to her.

In the impugned order dated 03.09.2020, the District Magistrate, Patiala, had appraised various circumstances vis-a-vis conduct

also about the registration of FIR, in pursuance of interception of the petitioner along with fake documents, by the police, from the Nepal border. Considering these circumstances, at first instance, when the report was received from the Senior Superintendent of Police, the District Magistrate, Patiala, had again written to the Senior Superintendent of Police, thereby apprising him about the revisions/petitions filed by prisoner Ravdeep Kaur, to have not been considered at all and subsequent report was called. However, the report was again made in a mechanical manner. The basis of making such report, as such, has been detailed in the affidavit of Superintendent of Police(City), Patiala. However, as already observed aforesaid, the facts and circumstances of the present case, do not speak about the simpliciter overstay of prisoner on parole and this very fact, itself makes a distinction of the case of the petitioner, for considering her plea of grant of parole.

Considering the aforesaid fact situation, there are chances of petitioner evading the process of law and likelihood of the petitioner to escape from the country, in an illegal manner, as such, cannot be ruled out. Precisely, on this account, it shall not be appropriate to accept request of the petitioner for releasing her on parole.

As such, the present petition is hereby dismissed.

(ANIL KSHETARPAL)
JUDGE

(ARCHANA PURI)
JUDGE

June 07, 2021
Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No