

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

CRWP-9440-2020 (O & M)
Date of Decision: October 8th, 2021

Jaswinder Singh Dosanjh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Ms. Bandana Trikha, Advocate, for the petitioner.
Mr. Dhruv Dayal, Sr. DAG, Punjab.
Mr. Satya Pal Jain,
Addl. Solicitor General of India with
Mr. Dheeraj Jain, Senior Panel Counsel,
for respondent No.4-UOI.

HARNARESH SINGH GILL, J.

Case is taken up for hearing through video conferencing.

The petitioner seeks grant of an emergency parole on the ground that his father is suffering from pneumonia and is a known case of left cerebellar Hemiplegia and has been continuously hospitalized for quite some time last.

Learned counsel for the petitioner would submit that even mother of the petitioner is also ill as she has undergone a backbone surgery. It is further submitted that as there is no male member in the family of the petitioner to look after and

take care of his old and ailing parents, the petitioner may be granted four weeks' emergency parole.

On the other hand, the learned State counsel as well as learned Addl. Solicitor General of India, submit that the petitioner is in the habit of filing one after the other petition for grant of parole on the ground of the ailment of his parents. It is further submitted that earlier the petitioner was granted parole, which was extended upto 28.10.2020 vide order dated 06.10.2020. It is yet further submitted that granting the prayer of the petitioner would negate the treaty between Government of India and that of United Kingdom. It is further submitted that there is a treaty between the Government of India and Government of United Kingdom, according to which, the petitioner is entitled to parole only two years prior to the expiry date of the minimum tariff. It is further submitted that the petitioner was convicted for life imprisonment with minimum term of 23 years by the Central Criminal Court, London and his sentence was reduced to life imprisonment with minimum tariff of 21 years by the Court of Appeal Criminal Division, Royal Courts of Justice Strand, London, in the year 2004. Thus, the minimum tariff will expire in 2025 and the prayer of the petitioner can only be considered in 2023 i.e. two years prior to the expiry of minimum tariff. Moreover, the petitioner has already availed parole for 15 months in a period of four years.

It is further submitted that the Government of United Kingdom has gone to the extent by informing the Ministry of Home Affairs that in case the paroles are continued to be

granted in this way, they will never transfer a person of Indian horizon, who is convicted by the Courts of U.K., to Indian jails.

Having heard learned counsel for the parties, I do not find any merit in the present petition.

Petitioner was transferred to India under Bilateral Agreement dated 21.11.2005 titled as 'Agreement Between the Government of The United Kingdom Of Great Britain And Northern Ireland And The Government Of The Republic Of India And The Transfer Of Sentenced Persons' which was signed under the Repatriation of Prisoners Act, 2003. The parole furlough and remissions cases of the prisoners repatriated from United Kingdom are to be considered as per the Agreement dated 21.11.2005.

From a perusal of the custody certificate, it would be clear that the petitioner has already availed parole of more than 15 months. As would be clear from the order dated 06.10.2020, earlier the parole granted to the petitioner was extended upto 28.10.2020, but as he did not report back, this Court vide order dated 03.11.2020, dismissed CRWP-8992-2020 filed by the petitioner seeking his release on parole.

Learned counsel for the petitioner could not controvert the existence of the treaty under which, the petitioner was transferred to India. In view of the terms of the said treaty, the transferred prisoners like the petitioner, are not eligible for temporary release from prison. In the instant case, the petitioner has already availed more than 15 months of parole. The ground for grant of parole is not different from the one pleaded earlier.

Thus, repeated grant of parole for the same cause, however, genuine that might be, would defeat the terms of the treaty between the respective Governments.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

08.10.2021
ds

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking? Yes/No

Whether reportable? Yes/No