

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

**CRWP-10634-2020 (O&M)
Date of decision: 04.03.2021**

Gurjepal Singh @ Gurja

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. N.S. Kamboj, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 20.05.2020 passed by respondent No.2/Deputy Commissioner-cum-District Magistrate, Moga, declining the prayer of the petitioner for grant of parole for a period of eight weeks.

Learned counsel for the petitioner submits that the petitioner is undergoing the sentence of 07 years, arising out of an FIR under Section 304 IPC, in which he was convicted by the Additional Sessions Judge, Moga, vide judgment of conviction and order of sentence dated 24.01.2018. It is further

submitted that the petitioner, as per the Rules, has applied for parole, however, the District Magistrate, vide impugned order dated 20.05.2020, rejected the same only on the ground that as per report submitted by the SSP, if the petitioner is released on bail, there will be law and order problem in the State. It is also submitted that though the petitioner is involved in some FIRs relating to the years 2013 and 2014, however, he has already undergone the sentence in those cases.

Learned counsel for the petitioner has further submitted that the petitioner has, in fact, undergone 04 years, 03 months and 15 days of total sentence including remission in the present case, therefore, as per the Rules, he is entitled to parole. It is also submitted that before verifying the law and order problem, the police authorities have also sought report from the respectables as well as Panchayat of the village, who have clearly stated that there is no danger to the society, in case the petitioner is released on parole. Learned counsel for the petitioner has relied upon a judgment of this Court in **Manga @ Manga Singh Vs. State of Punjab and others, 2020(4) RCR (Criminal) 133**, wherein, in similar circumstances, the parole was granted.

Learned State counsel, on the basis of reply by way of affidavit of District Magistrate, Moga, has, however, opposed the prayer for bail on the ground that the petitioner is habitual offender as per Section 2(3) of Punjab Habitual Offenders (Control and Reforms) Act, 1952, therefore, he is not entitled to parole. It is further stated that SSP, Moga has sent a report on 07.05.2020 recommending that the petitioner be not released on parole, as it

will create disturbance of law and order in the State.

After hearing learned counsel for the parties and going through the pleadings, it is apparent that the petitioner, who was involved in four FIRs pertaining to 2013 and 2014, has already undergone the sentence in some of the cases and stands acquitted in two FIRs.

The fact that the petitioner, other than the ground of law and order problem, is eligible to get the parole, is not disputed in the affidavit of District Magistrate, Moga.

In view of the above, while replying upon judgment of this Court in **Manga @ Manga Singh's** case (supra), this petition is allowed and the impugned order dated 20.05.2020 is set aside.

The District Magistrate, Moga is directed to reconsider the matter within a period of four weeks from the date of receipt of certified copy of this order, keeping in mind the observations made in this order and pass an appropriate order.

[ARVIND SINGH SANGWAN]
JUDGE

04.03.2021
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No