

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

CRWP No.10652 of 2020
Date of Decision: July 29, 2021

Manpreet Singh @ Mani

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Nandan Jindal, Advocate,
for the petitioner.

ARCHANA PURI, J.

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

CRM-W-787-2021

The present application has been filed under Section 482 Cr.P.C. for preponing the date of hearing of the main petition, which is fixed for 24.08.2021.

Notice in the application.

Mr.H.S.Sullar, Deputy Advocate General, Punjab, accepts notice on behalf of the respondent-State.

In view of the averments in the application, the same is allowed the main case is taken up for hearing today itself.

CRWP-10652-2020

The petitioner has invoked the writ jurisdiction of this Court,

thereby making prayer for issuance of a writ in the nature of certiorari quashing the impugned order dated 26.10.2020 (Annexure P-1) passed by respondent No.3, whereby regular parole of the petitioner was rejected. Besides the same, the petitioner has also sought issuance of a writ in the nature of mandamus, thereby directing the respondents to release the petitioner on parole for eight weeks, to enable him to meet his family members.

It is averred in the petition that in pursuance of the judgment dated 05.08.2020 passed in case FIR No.111 dated 11.09.2014, under Sections 302, 34 IPC and Section 25 of the Arms Act Police Station Badni Kalan, District Moga, the petitioner was convicted and awarded 20 years' imprisonment. To challenge the judgment of conviction and order of sentence, the petitioner has filed an appeal, which is pending before this Court.

It is further averred in the petition that since the date of commission of offence, the petitioner is continuously confined behind the bars and he has already completed more than 6 years of actual sentence. Also, it is averred that the petitioner had applied for regular parole by way of application along with panchayatnama and his case was further sent to the District Magistrate, Moga, after completing all the formalities. The parole case of the petitioner was then sent to Senior Superintendent of Police, Moga, for verification and report, but however, his case of parole has been rejected vide impugned order dated 26.10.2020, solely on the ground that there is apprehension of breach of peace and maintenance of public order and further, that the complainant Gamdoor Singh shows

It is also averred in the petition that Superintendent, Central Jail, Patiala, sought information from the Senior Superintendent of Police, Moga, to ascertain, whether the petitioner is a gangster or not. However, the information was sent that the petitioner is not the gangster and his character in the jail is very good and he does not belong to any gang or group. In the petition, also detail has been given about registration of other FIRs against the petitioner and status of the same.

Now, it is submitted by learned counsel for the petitioner that case of the petitioner for parole has been wrongly rejected. As such, the petitioner is now seeking indulgence of this Court for grant of parole.

Upon notice, learned State counsel has filed reply, which is in the form of affidavit of District Magistrate, Moga, wherein claim of the petitioner for parole has been resisted. It is stated in the reply that petitioner is involved in other cases. Even, Senior Superintendent of Police, Moga, has sent report to the office of District Magistrate, Moga, thereby making recommendation not to release the convict-petitioner on parole as his release may create disturbance of law and order in the State and complainant Gamdoor Singh s/o Surjit Singh r/o Village Khusa and his family members, apprehend threat to their life. Also, Senior Superintendent of Police, Moga had furnished detail of five FIRs, which were registered against the petitioner in various police stations. It is further stated that petitioner has undergone only 1 month and 6 days in case FIR No.111 dated 11.09.2014 under Sections 302, 34 IPC and Section 25 of the Arms Act, Police Station Badhni Kalan and his remaining period of sentence is 19 years, 10 months and 24 days. Further, it is stated in the reply that as the

that the parole of the petitioner can disturb the maintenance of law and order in the State and there is also threat to the life of complainant and his family and he can escape while on parole.

We have heard learned counsel for the petitioner as well as learned State counsel and with their able assistance, perused the record.

The petitioner has sought grant of parole to enable him to meet his family members. Vide impugned order dated 26.10.2020 (Annexure P-1), the case of the petitioner for grant of parole was considered and Senior Superintendent of Police, Moga, had reported that there is threat to the State security and maintenance of public order, if the convict is released on parole. Moreover, there are number of cases registered against the petitioner. The detail of the cases has been given in paragraph No.1 of the impugned order, which is as herein given:-

- * *FIR No.15 dated 23.1.2019, U/s 52-A, Prisoners Act, P.S. City Faridkot.*
- * *FIR No.100 dated 11.8.2014, U/s 307/148/149 IPC & the Arms Act, P.S. Badni Kalan (Convicted for 5 years vide judgment dated 11.01.2019).*
- * *FIR No.11 dated 28.3.2013, U/s 324/341/323 IPC & 25 Arms Act, P.S. Badni Kalan (Acquitted vide dated 27.9.2018).*
- * *FIR No.75 10.8.2015, U/s 304-A IPC, P.S. Badni Kalan (Cancellation report vide dated 10.7.17).*

Also, it is stated in the impugned order that complainant Gamdoor Singh s/o Surjit Singh has shown danger to his life and to the life of his family members from the convict. In view of the same, District Magistrate, Moga, had rejected the parole case of the convict.

The Punjab Good Conduct Prisoner's (Temporary Release) Act,

1962, was enacted for temporary release of the prisoners, on account of their conduct, but on certain conditions. It is though a privilege granted by the State to the prisoners, but however, it cannot be clipped for the vague reasons. 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 to behave properly during the period of parole and also not disturb the social peace.

Even though, in the impugned order, it is stated that Senior Superintendent of Police, Moga, has shown threat to the State security and maintenance of public order, if the convict comes out on parole, but however, it is pertinent to mention that nothing as such, has been specifically mentioned about the manner, in which release of the petitioner poses threat to the State security. The reason so assigned in the impugned order, is quite vague. Even though, there are stated to be other FIRs registered against the petitioner, but however, it is pertinent to mention that as per the details given in the impugned order, in one case, though the petitioner has been convicted but in other case, he has been acquitted and in one case, cancellation report has been filed. There is though no mention about apprehension, on the part of the State authority regarding there being threat to security but this seems to be sole ground. Even though, it is submitted that complainant Gamdoor Singh is showing danger to his life and his family members from the convict-petitioner but it is vague assertion so made. Nothing as such, has been pointed out as to how and in what manner, the complainant has apprehension at the behest of the petitioner.

Nothing as such, has been specified either in the impugned

the conclusion of there being threat to the State security at the instance of the petitioner. As such, reasons so given by the State, are quite vague.

In the light of the aforesaid and in the given circumstances, the present petition, as such, is allowed and the petitioner is hereby ordered to be released on parole for a period of six weeks, subject to this furnishing bail/surety bonds to the satisfaction of releasing Court/Duty Magistrate concerned, within a period of seven days from today onwards.

(RITU BAHRI)
JUDGE

(ARCHANA PURI)
JUDGE

July 29, 2021
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
Yes/No