

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

CRWP No.10862 of 2020

Date of Decision: September 16, 2021

Kulwinder Singh @ Kinda

...Petitioner

VERSUS

State of Punjab and others

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.P.S.Sekhon, Advocate
for the petitioner.

Mr.Amit Mehta, Sr. Deputy Advocate General, Punjab
for the respondent-State.

ARCHANA PURI, J.

Through the present petition, the petitioner is seeking quashing of the order dated 01.05.2020 passed by the District Magistrate, Sangrur, thereby declining the parole sought by the petitioner and further, the petitioner has also sought issuance of mandamus, thereby directing the respondents to release the petitioner on parole for a period of eight weeks, for repairing his house and for taking care of his family members.

In the petition, it is averred that FIR No.93 dated 19.08.2018 under Section 22 of the NDPS Act, Police Station Longowal, District Sangrur, was registered against the petitioner and co-accused. Vide judgment dated 08.01.2020, the petitioner has been convicted and ordered

to undergo rigorous imprisonment for a period of 12 years.

The petitioner applied for parole in view of the situations in the jails, due to the panic created of Covid-19. However, his claim for parole was declined by respondent No.2 vide impugned order dated 01.05.2020, on the basis of the report dated 29.04.2020 submitted by respondent No.3-SSP, Sangrur, only on the ground that the petitioner does not fulfill the conditions of notification issued by the High Power Committee of this Court and there is danger to the State security and situation of law and order of the locality, if the prisoner is released on parole.

It is further averred that application for parole of the petitioner has been declined on unreasonable grounds, by simply stating about release of the petitioner may pose threat to the State security and there is apprehension of disturbance of peace and harmony.

Upon notice, learned State counsel has filed reply, thereby reiterating that the case of the petitioner Kulwinder Singh @ Kinda does not fall within parameters of the release on parole, as per the report passed by the High Power Committee of this Court. Also, medical report of Kulwinder Singh @ Kinda has been annexed, which is Anneuxre R-1, wherein, it is stated about the detail of the treatment extended to the petitioner by the Orthospecialist inside Jail hospital for complaint of pain in left knee, as he has history of left knee surgery, about two years back. Also, it is stated that 1st dose of Covid-19 vaccination has been given to the petitioner on 20.04.2021. In this reply, it is also stated that parole case of the petitioner was rejected, on the basis of report of Senior Superintendent of Police, Sangrur.

We have heard learned counsel for the petitioner as well as

learned State counsel and with their able assistance, perused the record.

The petitioner had sought grant of parole for repair of his house and taking care of his family members. However, case of the petitioner for grant of parole was rejected by the District Magistrate, Sangrur, in view of the report submitted by SSP, Sangrur (Annexure P-2). In Annexure P-2, there is mention of petitioner not being covered by the report of the High Power Committee constituted to scrutinize the parole cases of the inmates. Besides the same, it is stated that there is danger to the State security and to the situation of law and order of the locality, if the prisoner (Kulwinder Singh @ Kinda) will be released on parole and as such, no recommendation was made for release of the petitioner on parole. It was only on the basis of this report, the parole was recommended not to be extended to the petitioner.

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 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 not to disturb the social peace. Even though, in the impugned order it is stated that the SSP, Sangrur had reported that if released on parole, the petitioner may pose threat to the State security and there is apprehension of disturbance of peace and harmony, but however, what was the basis of reaching such conclusion, as such, has not been mentioned. It is pertinent to mention that in the report of office of SSP, Sangrur, there is simple mention

about there to be danger to the State security and to the situation of law and order of the locality, if the prisoner will be released on parole. What is the basis of this conclusion, as such, has not been stated. The reason, so assigned, in the impugned order is quite vague. The District Magistrate, Sangrur, also vide impugned order Annexure P-1, had simply reiterated the reasons, so given by SSP, Sangrur, about the petitioner that he may pose threat to the State security and there is apprehension of disturbance of peace and harmony. The case of three prisoners, including the present petitioner, was considered in one go and the impugned order was passed. However, nothing as such, has been disclosed about the manner, in which, the petitioner or other prisoners, whose cases were considered in the impugned order, pose threat to the State security or about the manner of having apprehension of disturbance of peace and harmony. Nothing has been specified about the aforesaid grounds. As such, the reasons so given by the State are quite vague.

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 eight weeks, subject to his 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

September 16, 2021
Vgulati

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No