

**(101) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRWP-10927-2021
Date of decision :03.12.2021**

Deepak Kumar

... Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present: Ms. B.P. Kaur Brar, Advocate for the petitioner.

Mr. H.S. Sullar, Deputy Advocate General, Punjab.

(Through Video Conferencing)

M.S. RAMACHANDRA RAO, J. (ORAL)

Heard learned counsel for the petitioner and Mr. H.S. Sullar,
Deputy Advocate General, Punjab.

This Writ Petition has been filed challenging the order dated 28.10.2021 passed by the respondent No.1 rejecting request for parole sought by the petitioner (convict No.5251/C), who had been convicted in a case FIR No.52 dated 31.05.2017 under Sections 364-A, 365, 384, 120-B, 201, 473 IPC read with Sections 25, 54, 59 of the Arms Act, registered at Police Station Banaur, District SAS Nagar, Mohali.

Petitioner had been sentenced to undergo imprisonment for life and to pay a fine by the order of the Sessions Judge, SAS Nagar (Mohali) on 22.04.2021 and is currently in the New District Jail, Nabha.

Petitioner had preferred a Criminal Appeal CRA-D-357-2021 challenging the order of conviction which is pending for adjudication before this Court.

On 24.08.2021, the petitioner applied for eight weeks' parole so that he may meet his family and to look after household affairs. Respondent No.4 initiated and recommended the eight weeks' parole request of the petitioner and forwarded the same to respondent No.3 and also to respondent No.2 through the letter No.2760 on 24.08.2021. According to the petitioner in the Panchayatnama, the Councilor and the respectables of the area also recommended eight weeks' parole to him.

However, on 28.10.2021 (P1), the request of parole made by the petitioner was rejected by respondent No.3 on the sole ground that election of Vidhan Sabha is likely to be conducted soon and some *mohalla* residents, named in the order, had opposed his release on parole. It is stated that there is apprehension of the danger to the security of the State and maintenance of public order if the petitioner is released on parole since the elections are likely to be conducted soon.

It is the contention of the learned counsel for the petitioner that the petitioner is entitled to grant of parole as sought as per the provisions of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 and as such the impugned order (P1) passed by respondent

No.3 is legally unsustainable and the reasons assigned therein are vague and arbitrary.

It is further contended that the provisions of the Statute provide for the temporary release of the prisoners for good conduct on certain conditions as envisaged in Section 3 of the Act and the petitioner does not fall in the category of 'hardcore prisoner' as specified in Section 2(aa) of the said Act. It is the contention of the petitioner that under Section 3(1)(d) of the Act, the petitioner is entitled to be considered for grant of parole.

In the reply filed by way of an affidavit on behalf of respondents through respondents No.1, 2 and 4, the impugned order is sought to be supporting on the same ground i.e. there is likelihood of danger to law and order and security of the State if the petitioner is released on parole in view of the Legislative Assembly elections, which would be held shortly.

We have noted the contentions of both sides.

The application for parole had been made by the petitioner on 24.08.2021. The same had been disposed of by the respondent No.3 on 28.10.2021 almost two months later. It is not in dispute that the Elections to the Punjab Legislative Assembly have not yet been announced and it is anticipated that the said election may be held some time in the late February or in early March, 2022.

Having regard to the said submissions, and also having regard to the fact that the petitioner has already been in custody since 04

years, 04 months and 27 days till 30.11.2021, and since the request for parole made by the petitioner is to look after the family affairs seems to be reasonable, we are of the opinion that the petitioner is entitled to be released on parole for a period of 06 weeks. This is because the election to the Punjab Legislative Assembly will not take place within this period and there is substantial time gap since the said elections are likely to be held in the last week of February, 2022 or early March, 2022.

Accordingly, this Writ Petition is allowed and the impugned order dt. 28.10.2021 passed by respondent No.3 is set aside and the respondents are directed to release the petitioner on parole for a period of 06 weeks from the date of his release to enable him to meet and look after and settle the household affairs. However, the petitioner shall not indulge in any activity which is likely to endanger the security of the State or maintenance of the public order during the period he is on parole. Bail bonds/surety bonds be furnished to the satisfaction of the concerned CJM.

(M.S. RAMACHANDRA RAO)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

03.12.2021
JITESH

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No