

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

205

CRWP-632 of 2022 (O&M)
Date of decision: 03.03.2022

Sahab Singh @ Sahib Singh

...Petitioner

Versus

UT, Chandigarh and another

...Respondents

**CORAM: HON'BLE MR.JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR.JUSTICE H.S. MADAAN**

(Through Video Conferencing)

Present: Mr. R.S. Hooda, Advocate for the petitioner.

Mr. B.R. Rana, Advocate for
Mr. J.S. Toor, APP, UT Chandigarh.

H.S. MADAAN, J.

Petitioner Sahab Singh @ Sahib Singh, a convict in a murder case bearing FIR No.52 dt. 16.03.2016, for offence under Sections 302, 201 and 120-B IPC, registered at Police Station Mauli Jagran, Chandigarh, undergoing life imprisonment in Model Jail, Chandigarh has brought the instant criminal writ petition under Article 226 of the Constitution of India read with Section 3(1)(b) of Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for short 'the Act') seeking 90 days special parole to take care of his old aged mother Smt. Balwinder Kaur, statedly suffering from kidney disease, requiring surgery.

2. The petitioner had applied to the jail authorities for grant of parole but his such request was declined for the reason that he is involved

in three criminal cases relating to theft, dishonestly retaining stolen property and other serious offences, and in case his request is accepted, there is apprehension of public peace and tranquility being disturbed, since the local police and Senior Superintendent of Police, Patiala had sent report to the jail authorities in that respect.

3. Notice of the writ petition was given to the respondents-UT, Chandigarh, which has filed written response, opposing it vehemently, attaching custody certificate of the petitioner.

4. We have heard Sh. R.S. Hooda, counsel for the petitioner and Sh. B.R. Rana, counsel appearing for Sh. J.S. Toor, APP, UT Chandigarh, besides going through the record, and we find that the present criminal writ petition lacks merit, and is doomed for failure.

5. Needless to say grant of parole under the Act is a discretionary relief, and it cannot be claimed by a convict as a matter of right. For ordering a convict on temporary release from custody in the form of parole, various factors have to be taken into consideration, and it is not to be granted in a mechanical way adopting a casual and cursory approach. Here in the instant case, the petitioner by approaching the jail authorities had sought parole for 90 days. A perusal of documents i.e. communication addressed by District Magistrate, Patiala to Inspector General of Prisons, UT Chandigarh dt. 19.08.2021 (Annexure P-1), and intimation sent from office of Inspector General of Prisons & Correctional Administration, UT Chandigarh to Superintendent, Model Jail, Chandigarh dt. 09.09.2021 (Annexure P-2) goes to show that no

specific reason for seeking the parole has been mentioned. Although, in the writ petition, the petitioner has stated that he wants release on parole to attend to his ailing mother Smt. Balwinder Kaur, who is of old age suffering from kidney disease requiring surgery, however, as asserted in the status report filed by way of affidavit of SHO, Police Station Mauli Jagran, Chandigarh in response to the writ petition, the matter was got enquired into by the local police through a police official, who recorded statement of Sarpanch of Village Patran, Tehsil Rajpura, District Patiala, which has been reproduced in the affidavit in terms of which, the name of mother of the petitioner is mentioned to be Jaspal stated to be patient of disease Hepatitis-C, getting treatment at home; in terms of such statement of Satpal Singh, Sarpanch, the name of mother of the petitioner is Jaspal, and not Balwinder Kaur, and Jaspal is suffering from Hepatitis-C disease, and not from some kidney problem.

6. As per enquiries made by the police officials, who had gone to the spot, biological mother of the petitioner namely Balwinder Kaur is hale and hearty, not suffering from any kidney disease, whereas, Jaspal is step mother of the petitioner. It also transpired that petitioner has a brother, who is living with Balwinder Kaur and Jaspal in the same house.

7. We do not see any reason to disbelieve such enquiry got conducted by the local police and report thereof. The petitioner has obviously made misrepresentations stating that his mother Balwinder Kaur is suffering from kidney disease, and she requires surgery. There is no mention in the petition that the petitioner has got a step mother by

name of Jaspal, who is suffering from disease of Hepatitis-C. Such act and conduct of the petitioner is more than sufficient to dismiss his petition seeking discretionary relief of grant of parole.

8. Although, learned counsel for the petitioner tried to render an explanation submitting that the petitioner had been adopted by Jaspal, who is his adoptive mother but the explanation seems to be an afterthought and unconvincing, when it is noticed that not even a single word in that regard is there in the petition. In the police report referred to in the written reply on behalf of the respondents, Jaspal has been mentioned to be step mother and not adoptive mother. Needless to say, there cannot be any step mother when biological/natural mother is alive.

9. Furthermore, the petitioner comes out to be habitual criminal inasmuch as he is involved in 04 criminal cases, having following particulars:-

1. FIR No.72 of 2020, registered under Sections 379 and 411 IPC, at Police Station Guhla (Haryana).
2. FIR No.186 of 2020, registered under Sections 379 and 411 IPC, at Police Station Cheeka (Haryana).
3. FIR No.192 of 2020, registered under Sections 379 and 411 IPC, at Police Station Patran (Punjab).
4. Complaint No.142 of 2019, registered under Section 138 of Negotiable Instruments Act.

Therefore, the apprehension expressed by the local police that if granted parole, there is likelihood of breach of public peace and tranquility cannot be said without any basis.

10. One more factor to be taken note of is that, as mentioned in the custody certificate, the petitioner has availed of 03 paroles of 28 days each, and one parole on account of outbreak of COVID-19 pandemic from 15.04.2020 to 22.11.2020, total 220 days. In the petition itself, the petitioner has mentioned in para No.3 that he is on parole till 20.01.2022. Thus, it comes out that he has been out of the jail for a considerable period, and he could very well have attended to his mother, alleged step/adoptive mother during that time. No medical document has been attached by the petitioner in support of assertions in the writ petition to corroborate his version. If it is taken that mother/step mother of the petitioner required any medical treatment including surgery that could have been taken when the petitioner was out of the jail on parole on various occasions, more particularly for a period of more than 07 months from 15.04.2020 to 22.11.2020, and thereafter also for several days.

11. From the reply filed on behalf of the respondents, it comes out that brother of the petitioner is there to take care of his mother/step mother, and they are residing in the same house.

12. The reason given by the petitioner for seeking parole does not come out to be correct and genuine. Thus, finding no merit in the instant petition, the same stands dismissed.

(M.S. RAMACHANDRA RAO)
JUDGE

03.03.2022

sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No