

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

**CRWP No. 1034 of 2022
Date of Decision: 18.04.2022**

205

Chhinder Singh @ Shinder Singh @ ShindaPetitioner(s)

vs.

State of Punjab and othersRespondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present:- Mr. Narinder S. Lucky, Advocate,
for the petitioner.

Mr. SPS Tinna, Addl. A.G., Punjab.

G.S. SANDHAWALIA, J. (Oral)

The petitioner, in the present criminal writ petition filed under Article 226 of the Constitution of India, seeks release on parole for a period of 8 weeks under Section 3(1)(c) of Punjab Good Conduct Prisoner (Temporary Release) Act, 1988.

It is the case of the petitioner that on account of the conviction recorded for a period of 20 years on 21.05.2019 under Section 376-D, 201 IPC by the Additional Sessions Judge, Jalandhar, he is in custody and has undergone about 2 years, 9 months and 10 days of actual sentence as per custody certificate dated 03.03.2022 and, thus, for meeting his family members as such, prays for grant of parole.

The said prayer was rejected by the District Magistrate, Moga vide order dated 30.12.2021 (Annexure P-1) mainly on the ground that there are other cases against the petitioner and, thus, there is threat to maintenance of security of State if he is released on parole. There are

chances of his absconding during his parole, which is also one of the reason which prevailed with the District Magistrate, Moga to reject his case.

In the affidavits filed by respondent Nos. 1 and 2 and respondent No.3 separately, the order has been justified and it has been admitted that during trial in FIR No. 297 dated 14.10.2013, in which he had been convicted, the petitioner had been granted regular bail on 22.07.2015. It is thus not disputed that the petitioner has undergone 2 years, 9 months and 10 days of actual custody after conviction as per custody certificate dated 03.03.2022 and has not been released on parole since 21.05.2019. The District Magistrate, Moga has referred to the FIRs registered against him but the details as such have not been mentioned and reliance has been placed upon report of the SSP, Moga that his case is not recommended for release on parole as it does not fall under the purview of the guidelines of the High Power Committee as such, which in the considered opinion of this Court, was on account of the Covid-19 pandemic.

Thus, apparently, the ground which prevailed with the District Magistrate, Moga as such is not liable to be sustained as the purpose of release on parole is a wing of reformatory process, which has been held in *Arun Kumar vs. State of U.T., Chandigarh and others, 2011 (2) AICLR 361*. Similarly, in *Ram Chander vs. State of Punjab and others, 2017 (3) RCR (Crl.) 340*, it has been held that in the absence of any material before the District Magistrate, the denial of benefit of parole on security grounds would not be justified which is being prayed for meeting the family members. The custody certificate would also go on to show that the petitioner as such has been acquitted in two of the cases, which have been mentioned and he is on bail in FIR No. 64 dated 06.05.2018 and there is no

reference of the fifth case as such, at least in the custody certificate. As noticed above, the details of the cases have not been given in the reply also filed by the District Magistrate, Moga i.e. respondent No.3.

In such circumstances, keeping in view the fact that the petitioner had also availed the benefit of bail during trial and thereafter attended proceedings and was taken into custody, we are of the opinion that the reasoning given as such that he would abscond is not justified and the petitioner is entitled for the benefit of parole. Accordingly, the order dated 30.12.2021 is quashed.

He accordingly be released on parole for a period of 5 weeks from the date of release on furnishing the requisite bail bonds to the satisfaction of the competent authority and he shall surrender back in time in the jail on the expiry of the said period after his release. It is, however, made clear that the petitioner shall not enter the jurisdiction of Jalandhar district keeping in view the fact that the conviction is under Section 376-D IPC and the prosecutrix is based there, which was one of the reasons as such the case had been declined on an earlier point of time.

The petition is allowed in the above terms.

(G.S. SANDHAWALIA)
JUDGE

18.04.2022
shivani

(VIKAS SURI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No