

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

CRWP-1567-2021

Date of decision : 06.08.2022

Sukhvir Singh @Sukha

.....Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Rakesh Dhiman, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, AAG, Punjab.

RAJESH BHARDWAJ, J. (Oral)

Petitioner has approached this Court by way of present petition impugning the order dated 24th April, 2020 whereby the prayer of the petitioner for releasing the petitioner on parole was declined by the respondents.

It has been contended by counsel for the petitioner that petitioner was convicted in FIR No.93 dated 09.09.2008 for the offence under Sections 302, 177, 363, 376, 201, 34 of IPC, registered at Police Station Khammano, District Fatehgarh Sahib vide his judgment and order dated 25.02.2010 and, he was sentenced for life. Thereafter, the same has been assailed by the petitioner by way of filing an appeal which was dismissed by this Court vide order dated 19th March, 2019.

Learned counsel for the petitioner submits that the petitioner is undergoing his sentence and during this period, he has availed parole 13 times. During the period, he remained on parole, he never disobeyed any terms and conditions of the parole granted to him and thus, surrendered every time after completion of the period of parole. He

submits that petitioner has filed an application for grant of parole for agriculture purpose in the month of March, 2020. He approached respondent-authorities for granting him parole and the proceeding was initiated and the reports were called from the concerned quarters. He has submitted in order to conduct the enquiry the concerned officials went to the village of the petitioner and enquired about him and the panchayat also gave a report in favour of the petitioner. However, despite nothing adverse against the petitioner, the prayer of the petitioner for grant of parole was declined. The prayer was declined without assigning any reason. He submits that the only reason given in the report by the Magistrate was that he considered the case of the petitioner as per the direction given by the committee chaired by the Hon'ble Justice R.K.Jain of Punjab and Haryana High Court. He has submitted that the impugned order passed is totally cryptic and without any reason. He has however, submitted that the parole is the concession granted by the authorities and as on the earlier occasions when the petitioner availed the same for 13 times and there is nothing on record showing that the petitioner has ever violated any term or condition of parole, the same cannot be denied to him. He further submits that the stand taken by the State in declining his prayer that the petitioner falls in the 'hardcore category' also does not survive as the petitioner has availed parole even after the instructions in 2015 and has never disobeyed the concession granted. He has submitted that the impugned order deserves to be quashed and the petitioner be granted concession of parole as prayed for.

Learned State counsel, on instructions from Sh. Sushil Kumar, Assistant Superintendent Jail, Central Jail, Shri Goindwal Sahib,

has argued that the State has already filed the status report wherein it has been duly mentioned that the petitioner has been convicted for the offence under Sections 302 and 376 IPC and thus, in view of Section 2(aa) of the Punjab Good Conduct Prisoner (Temporary Release) Act, 1962, the petitioner falls in the category of Hardcore Prisoner. However, he candidly acknowledges that the petitioner has been granted parole on 13 occasions and he has never violated any terms and conditions of the parole granted. He also submits that the instructions given by the committee headed by the Hon'ble Justice R.K. Jain were during the period of pandemic.

I have heard counsel for the parties and perused the record.

Admittedly, the petitioner was convicted and sentenced by the Court below. Thereafter, he filed an appeal which was also dismissed, however, time and again, he approached respondent-authorities for the grant of parole, which was granted to him for 13 times. Though as per the stand taken by the State, he falls in the category of Hardcore Prisoner, however, there is nothing on record to show that the petitioner has ever misused or disobeyed any terms and conditions of the parole granted on earlier occasions. The recommendations of the committee chaired by Hon'ble Justice Mr. R.K. Jain were only for the period of pandemic and even after that period, now the authorities have not reconsidered the case of the petitioner.

After hearing counsel for the parties, the Court finds that the view taken by the respondent No.2 in order dated 24.04.2020 in declining the prayer of the petitioner for the grant of the parole is not legally justified and thus, the same is *set aside*. The authorities are directed to

reconsider the case of the petitioner and pass appropriate order within a month in the light of the relevant instructions as on date.

Petition stands allowed.

(RAJESH BHARDWAJ)
JUDGE

06.08.2022
m. sharma

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