

CRWP-1883-2022 (O&M)

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

**CRWP-1883-2022 (O&M).
Decided on: March 11, 2022.**

Shinder Singh @ Tota

.. Petitioner

VERSUS

State of Punjab and others

.. Respondents

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Prateek Pandit, Advocate,
for the petitioner.**

Mr.Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Articles 226/227 of the Constitution of India, with a prayer to issue writ in the nature of Certiorari for setting aside order dated 20.7.2021 (Annexure P-2) passed by the learned Deputy Commissioner-cum-District Magistrate, Kapurthala, whereby the prayer of the petitioner for the grant of parole has been declined.

Learned counsel for the petitioner has submitted that the petitioner was convicted under the NDPS Act and out of total sentence of 10

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years, he has already gone 4½ years. Thereafter, an appeal has been filed against the aforesaid judgment which is pending before this Court. He submitted that the petitioner had made an application to the authorities concerned for the grant of parole for his domestic purposes and meeting the family members stating that he had undergone substantive part of his sentence and there is no previous misconduct on the part of the petitioner while in jail. However, there were four other cases involving a very small quantity under the NDPS Act, against the petitioner. He submitted that parole application has been dismissed only on the ground that he was earlier involved in 4 other cases and by recording an observation that in case the petitioner is released on parole, then there is every likelihood that he may repeat the offence. The learned counsel relied upon a judgment of this Court in **Manga @ Manga Singh Vs. State of Punjab and others, CRWP-4593-2020, decided on 26.8.2020** and also a Division Bench judgment of this Court in **Ram Chander Vs. State of Punjab, 2017 (3) RCR (Criminal) 340,** to contend that such kind of reasoning is not a justifiable reasoning for declining the parole and the application can be declined only when the parametres contained under the Act itself are satisfied with regard to the security and sovereignty of the State etc. and the case of the petitioner was covered by judgments of this Court in **Manga @ Manga Singh** and **Ram Chander** (supra). He submitted that petitioner was also suffering from acute medical problems including Hepatitis C for which he was being given treatment and he was not keeping good health and therefore, this Court directed the State to verify the same and an affidavit has now since been

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filed by the State, after the petitioner was got examined from the Board of Doctors wherein it was found that general condition of the petitioner is good although he is suffering from Hepatitis C and can be given treatment from the Government Hospital. He submitted that although as per the report of the Board of Doctors, condition of the petitioner is good and he will not be entitled for parole on the medical reasons but so far as impugned order dated 20.7.2021 (Annexure P-2) passed by the learned Deputy Commissioner-cum-District Magistrate, Kapurthala, is concerned, this is totally contrary to the law laid down by this Court in aforesaid two judgments.

On the other hand, learned State counsel has submitted that although reply to the main petition has not been filed in the present case but he has no objection in case the Deputy Commissioner-cum-District Magistrate, Kapurthala, is directed to decide the application of parole filed by the petitioner afresh and in accordance with law.

I have heard the learned counsel for the parties.

The only ground on the basis of which the application for parole filed by the petitioner was dismissed was that he was earlier involved in similar matters under the NDPS Act, pertaining to small quantity and there was an apprehension that in case he is released then he may repeat the offence. Such kind of ground is neither feasible nor sustainable in law and the same has been so held vide judgments of this Court in **Manga @ Manga Singh** and **Ram Chander** (supra).

In view of above, the present petition is allowed and the

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impugned order dated 20.7.2021 (Annexure P-2) passed by the learned Deputy Commissioner-cum-District Magistrate, Kapurthala, is hereby set aside. The Deputy Commissioner-cum-District Magistrate, Kapurthala, is directed to decide the application of the petitioner for the grant of parole afresh by considering the law laid down by this Court in **Manga @ Manga Singh** and and **Ram Chander** (supra).

Let the decision be taken within a period of three weeks from the date of receipt of a copy of this order.

March 11, 2022.	(JASGURPREET SINGH PURI)
raj arora	JUDGE
Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No