

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

Criminal Writ Petition No.2054 of 2022(O&M)

Date of Decision: March 28, 2022

Amartej Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Dr.Bandana Trikha Sachdev, Advocate
for the petitioner.

Mr.B.S.Sewak, Addl.AG, Punjab.

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HARINDER SINGH SIDHU, J.

Present petition has been filed for release of the petitioner (Amartej Singh) on Emergency Medical Parole on the ground that the father of the petitioner is suffering from Hydatid Cyst in segment VII of Liver for which he needs to undergo a surgery as early as possible.

The petitioner has been convicted for offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo Rigorous Imprisonment for 15 years by Ld.Judge, Special Court, Ludhiana vide judgment dated 04.07.2016 in case FIR No.98 dated 17.05.2013, Police Station Sadar, Jagraon. Appeal filed by the petitioner before this Court bearing CRA-D-714-DB-2016 was dismissed on 24.05.2019 and the SLP (Crl.) No.001422-2020 filed before the Supreme Court is stated to be pending.

It is the case of the petitioner that his father Sh.Harwinder Singh, aged 60 years is suffering from Hydatid Cyst in segment VII of Liver for which he has already taken conservative treatment at D.M.C. Hospital, Ludhiana, but his condition did not improve. His condition is deteriorating . He is required to undergo surgery as early as possible before the condition worsens.

The wife of the petitioner submitted an application for grant of Emergency Medical Parole to the petitioner citing the medical urgency of his father along with the photocopies of the medical advice and the recommendation of the Gram Panchayat Village Mahmoodpura, Luahiana, but respondent No.2 did not entertain the application. Hence, this petition.

Ld. counsel for the petitioner has contended that the petitioner is the only son of his parents. There is no member in the family, who can take the responsibility to arrange medical expenses and other necessary arrangements for his father's surgery. The petitioner has already availed many paroles peacefully and always surrendered in time. The Gram Panchayat of the village has already recommended for parole of the petitioner as there is no apprehension of breach of peace.

Reply has been filed by respondent No.2 stating that a convict is released on parole in lieu of maintenance of good conduct by the convict during incarceration, but the petitioner has not maintained his good conduct during the last year as he was found in possession of a mobile phone during search and a case bearing FIR No.265 dated 02.09.2021 under Section 52-A of Prisons Act has been registered in Police Station City Faridkot. The case is pending before the Trial Court. He cannot be released on parole for one

year.

Ld. Additional Advocate General, Punjab has stated that since the petitioner has committed an offence under the Prisons Act, he cannot be released on parole for a period of one year as per the orders of the Addl. Director General of Police, Prisons Punjab dated 17.04.2002.

The only ground to oppose parole to the petitioner vide the reply filed by the respondent – State is that he had committed a Jail offence and consequently he cannot be released on parole for a period of one year.

A somewhat similar question was considered by a Division Bench of this Court in **Gurpreet Singh v. State of Punjab** 2012 (3) R.C.R.(Criminal) 504. In that case the petitioner had sought emergency parole as his mother was unwell and had to undergo surgery. Parole was denied on the ground that as per sub-rule (2) of Rule 3 of the Punjab Good Conduct Prisoners (Temporary Release) Rules 1963 a prisoner could not be released unless he has after his conviction maintained good conduct for at least four months.

This Court allowed parole by observing that holding that a proviso added to a Rule framed under the Act could not supersede the substantive provisions of the Act which contained no such prohibition.

As per Section 3(1)(aa) read with Section 3(2)(b) of the Punjab Good Conduct Prisoner's (Temporary Release) Act, 1962 a prisoner is entitled to temporary release for a period of six weeks where father or mother is seriously ill.

Accordingly this petition is allowed. The respondents are directed to release the petitioner on parole for a period of **FOUR WEEKS**

subject to his furnishing bond/ surety to the satisfaction of the District Magistrate/ Competent Authority. The petitioner shall surrender before the Jail authorities on the expiry of the parole period.

March 28, 2022

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No