

In the High Court of Punjab and Haryana at Chandigarh

**CRWP No. 3333 of 2022
Date of Decision: 19.4.2022**

Nitin @ Kakku

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Harpal Preet Singh Chopra, Advocate
for the petitioner.

Mr. Pardeep Prakash Chahar, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner herein became arrayed as an accused in FIR No. 414 of 4.6.2017, registered at Police Station Civil Line Karnal, District Karnal, wherein an offence constituted under Section 379-A IPC, is, embodied.

2. After conclusion of trial, upon the FIR (supra), the learned trial Judge concerned, proceeded to make an order of conviction, upon the petitioner, and, also sentenced him to undergo rigorous imprisonment extending upto seven years, besides, he imposed a fine of Rs. 25,000/- upon the petitioner.

3. Though, the aggrieved convict has preferred an appeal against the verdict (supra), before this Court. However, during the pendency of the apposite appeal, preferred against the verdict, as made upon him, by the learned trial Judge concerned, he strived to obtain parole from the competent authority concerned. His claim became rejected, through an order, as embodied in Annexure P-3. Annexure P-3 is challenged by the

petitioner.

4. Though, the communications, as carried in Annexure P-2, and, as drawn by the District Magistrate Shamli, reveal that earlier when the petitioner availed parole, lasting upto a period of 48 weeks, he did not indulge in any criminal activity, nor did he proceed to indulge in any ill-conduct rather not conducive to maintaining peace, and, security in the area concerned. Moreover, after completion of 48 weeks on parole, as became earlier granted to the petitioner, he entered the prison. In addition, when also there is no ill-conduct of the petitioner within the prison concerned. Therefore, it was inapt for the competent authority concerned, to merely rely on the report of the Superintendent of Jail concerned, detailing therein, that there is yet an apprehension that security, and, peace in the area concerned, would become breached, upon, the petitioner being granted parole. The reason for making the afore conclusion becomes drawn from the factum, that there is no tangible evidence to support the afore apprehension, hence rendering it to be surmisal.

5. In sequel, the impugned order dated 3.3.2022 (Annexure P-3), is quashed, and, set aside, and, the competent authority concerned, is directed to, in view of the afore made observations, and, also in accordance with law, proceed to make a fresh decision, within two weeks, upon the petitioner's application for parole.

6. The petition is disposed of.

(SURESHWAR THAKUR)
JUDGE

April 19, 2022
Gurpreet

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