

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

**CRWP-3874-2022
Date of Decision:01.08.2022**

Jasbir Singh @ Jassa Ghaint

.....Petitioner

Versus

State of Punjab and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Vishal Khatri, Advocate for the petitioner.

Mr. H.S. Sullar, DAG, Punjab.

TEJINDER SINGH DHINDSA J.(Oral)

Challenge in the instant petition is to the order dated 23.11.2021 passed by the Deputy Commissioner, Tarn Taran (Annexure P-3) declining the prayer of the petitioner to be released on parole.

A response to the petition by way of an affidavit of the Superintendent, Central Jail, Amritsar on behalf of respondents No.1, 2 and 5 alongwith Annexures R1 to R3-T has been placed on record.

Learned State counsel has sought to justify the passing of the impugned order by contending that the petitioner had earlier been granted concession of parole and he has misused such concession inasmuch as it is during the period of release on parole that he got involved in yet another FIR.

We find that such reasoning adopted by learned State counsel is neither reflected in the impugned order dated 23.11.2021 at Annexure P-3 nor in the reply that has been filed to the petition.

It goes without saying that the validity of an order has to be tested in

terms of the reasoning contained therein.

In the impugned order, the basis for rejection of parole has been recited in the following terms:-

As per report of the Senior Superintendent of Police, Tarn Taran vide letter No.27098/B/A.C-3 dated 16.09.2021, a case of heavy recovery is registered against the convict. The prisoner can again indulge in the selling of drugs. There is apprehension that prisoner might abscond from parole. Therefore the parole release case of Convict No.3492/177 Jasbir Singh @ Jassa Ghaint son of Darshan Singh resident of Mane Mallian, PS Chohla Sahib, District Tarn Taran is not recommended.

Even though concession of parole is not an absolute or vested right but at the same time it is not open for the respondent authorities to act arbitrarily and to pass mechanical orders as has been done in the present case.

In our view the impugned order cannot sustain.

Accordingly order dated 23.11.2021 (Annexure P-3) is set aside.

Liberty is granted to the respondents/competent authority to consider the prayer of the petitioner seeking parole afresh and in accordance with law.

Let such an order upon reconsideration be passed within a period of two weeks from today and be communicated to the petitioner.

Petition is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

(PANKAJ JAIN)
JUDGE

01.08.2022

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No