

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

**CRWP-4265-2022 (O&M)
Date of Decision:05.07.2022**

Hargobind Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

**CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.
HON'BLE MR. JUSTICE PANKAJ JAIN.**

Present:- Ms. Ishma Randhawa, Advocate for the petitioner.

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

...

TEJINDER SINGH DHINDSA, J. (ORAL).

Reply by way of affidavit of the Superintendent, Central Jail, Patiala on behalf of respondents No.1 to 3 has been filed in Court today. The same is taken on record and a copy thereof has been furnished to counsel opposite.

With the consent of the counsel for the parties, the main petition is taken up for disposal today itself.

Challenge in the instant petition is to the order dated 25.04.2022 (Annexure P-4) passed by the 4th respondent i.e. the District Magistrate, Amritsar City, Amritsar, whereby a request for grant of parole by the petitioner stands declined.

We have heard counsel for the parties.

It would be apposite to take note that the petitioner had earlier approached this Court in terms of filing CRWP-11715-2021 assailing the order dated 24.08.2021 that had been passed by the District Magistrate,

Amritsar declining the prayer of the petitioner for parole. Such petition had been disposed of by this Court in the light of order dated 07.04.2022 (Annexure P-2), whereby the order dated 24.08.2021 passed by the District Magistrate had been set aside and the matter was remanded back to the competent authority to have a re-look on the prayer of the petitioner for grant of parole and to pass a speaking order afresh within a period of two weeks.

At the stage of passing of the order dated 07.04.2022, this Court had observed that the order of rejection of parole had been passed in a mechanical fashion and without due application of mind.

The order that has been now passed and impugned in the instant petition i.e. dated 25.04.2022 takes note that there are 10 cases in which the petitioner is involved and as such, if the concession of parole were to be granted, he may abscond and may involve in criminal activities.

During the course of hearing, it has gone uncontroverted that out of 10 cases cited in the order, the petitioner already stands acquitted/discharged in 6 matters and in 2 matters, petitioner has already been granted the concession of bail. Such aspect has not even been dealt with in the impugned order.

That apart, the District Magistrate, Amritsar i.e. 4th respondent has acted as a post office in having blindly accepted the report of the Commissioner of Police, Amritsar City rather than forming an opinion on merit and after due application of mind as regards the prayer of the petitioner seeking parole.

We are constrained to observe that the order now passed dated

25.04.2022 (Annexure P-4) upon reconsideration suffers from the same very bias of the non-application of mind that had occurred at the stage of passing of the first order dated 24.08.2021 and that had been set aside.

The admitted factual premise is that the petitioner has faced trial in FIR No.42, dated 15.08.2013, registered at Police Station Taragarh, District Pathankot under Sections 21/25/29 of the NDPS Act and stands convicted. He is currently confined in Central Jail, Patiala and the appeal preferred by him against the judgment of conviction is pending final adjudication.

Petitioner has concededly undergone a period of 6 years and 6 months of custody period insofar as FIR No.42, dated 15.08.2013 is concerned.

There is no tangible material indicated in the impugned order which would justify the view formulated therein that the petitioner would abscond or would involve himself in other criminal activities.

In view of the above, we are of the considered view that the impugned order cannot sustain.

The order dated 25.04.2022 passed by the 4th respondent declining parole to the petitioner, as such, is set aside.

Since the petitioner's request was for grant of parole for a period of eight weeks to attend to his ailing wife and for which purpose certain medical record has also been placed on record and the same having not been controverted by the learned State counsel, prayer is allowed.

Directions are issued to the Superintendent, Central Jail, Patiala/competent authorities to release the petitioner on parole for a period of 8

week commencing w.e.f. the receipt of a certified copy of this order.

Petitioner would report back to the Jail Authorities after availing the parole period of 8 weeks.

Petition is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

05.07.2022
harjeet

(PANKAJ JAIN)
JUDGE

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |