

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRWP-4868-2022

Date of Decision: 29.09.2022

Tula Ram @ Tule Ram

..... Petitioner

Versus

Union of India and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. Akshay Rana, Advocate
for the petitioner.

Mr. Deepak, Advocate for
Mr. Amit Kumar, Advocate
for respondent No.1.

Mr. Navneet Singh, Sr. DAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

The petitioner is seeking parole for eight weeks under Section 3 (1) (c) read with section (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962. The petitioner was arrested in Crime Case No.75 dated 16.11.2017, under Sections 8, 20, 29 and 60 of NDPS Act, registered at NCB, Sector 25 (W), Chandigarh and sentenced to undergo rigorous imprisonment for 12 years. The appeal is pending before this Court. The request for grant of parole has been rejected on 09.03.2022 (Annexure P-3) on the ground that there is an adverse report from the SHO, PS Bhuntar, District Kullu, State of Himachal Pradesh as per the order passed by the Additional District Magistrate, Kullu.

The reply filed on behalf of respondent No.1 is that since there was a recovery of 9.720 kgs of Charas in Toyoto Innova Car from the conscious possession of the petitioner and one Bhupinder Singh. The sentence has been imposed.

No reply has been filed by respondents No.2 and 3 but custody certificate has been produced by respondent No.2 to show that the petitioner has undergone 04 years 10 months and 09 days of actual sentence.

Perusal of the said custody certificate would go on to show that there is no other case pending against the petitioner and he has never been even granted the benefit of parole from the day he was taken into custody, in November 2017.

In such circumstances, we are of the considered opinion that rejection only on the ground that there is an adverse report from the concerned police authorities could not be a justified and a valid ground for declining the benefit of parole. A Co-ordinate Bench of this Court in CRM-M-34013 of 2009 titled as “Varun @ Gullu vs. State of Haryana and others” decided on 26.04.2010 has laid down certain guidelines which were followed in *Arun Kumar Vs. State of U.T.Chandigarh and others, 2011 (2) AICLR 361* and in *Ram Chander vs. State of Punjab and others, 2017 (3) RCR (Crl.) 340*.

It has been held that the absence of any material before the District Magistrate, denial of benefit of parole is not justified and the provisions of the Act have been enacted as a reformatory measure with an object to enable the prisoner to have family association or to perform certain family obligations and rituals. Therefore, declining temporary release on parole just on the ground of an adverse report would not be sustainable.

Keeping in view the above, the present petition is allowed and the impugned order dated 09.03.2022 (Annexure P-3) is quashed. The petitioner shall be released on parole for a period of of 6 weeks, on furnishing the requisite bail bonds to the satisfaction of competent authority and he shall surrender back in time with the jail authorities on the expiry of said period after his release.

(G.S.SANDHAWALIA)
JUDGE

(JAGMOHAN BANSAL)
JUDGE

29.09.2022
anju

Whether speaking/reasoned	Yes
<i>Whether Reportable</i>	<i>No</i>