

In the High Court of Punjab and Haryana at Chandigarh

**CRWP No. 5186 of 2022
Date of Decision: 31.5.2022**

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. Sumit Gupta, Addl. A.G., Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, earlier through Criminal Writ Petition No. 3333 of 2022, had sought the making of a mandamus, upon, the respondents concerned, to provide to him, the facility of parole.

2. The above petition was decided on 19.4.2022. The relevant paragraph 4, as carried therein, becomes extracted hereinafter.

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

thereins, 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.

3. Since a reading of the above extracted paragraph reveals, that earlier availed parole by the petitioner, never became misused by him, and, also it becomes echoed thereins, that merely upon the report of the Superintendent of Jail concerned, detailing thereins, that there is an apprehension that security, and, peace in the area concerned would become breached, upon, the petitioner being granted parole, however, since there was no tangible evidence to support the afore apprehension. Therefore, the rejection of the petitioner's claim for parole was concluded to be infirmly drawn.

4. In consequence, this Court after setting aside Annexure P-3, as appended with the earlier petition, had directed that the petitioner's claim, for parole, be in view of the above observations, rather decided, in accordance with law, within two weeks. However, the authority concerned, through in Annexure P-6, admitted the petitioner to be the father of school going children, and, also made a further admission thereins, that they are to be admitted in the school concerned, yet merely for the reason, that any other adult member of the family of the petitioner, can admit the children of the petitioner, in the school, therefore, the claim of the petitioner for grant of parole for a period of four weeks, became on the above ground, rather declined.

5. The above declining is completely inapt, as even if the petitioner's children could have been admitted in the school, by the other members of the family, but also their father i.e. the petitioner herein, may be required by the

school authorities to accost to the school concerned, irrespective of the fact that he is a convict. The above accosting would certainly build up the morale, and, confidence of the children of the petitioner, than theirs joining the company of other adult members of their family, rather for the relevant purpose.

6. In consequence, the impugned order is quashed, and, set aside. The petitioner is ordered to be released on parole from the prison concerned, for a period of four weeks. However, subject to his furnishing, before the Superintendent of Jail concerned, personal, and surety bonds, comprised in a sum of Rs. 1.00 lac each, with a further undertaking, that he shall immediately, on expiry of four weeks, re-enter the prison concerned, and, also subject to a further undertaking that in case, upon expiry of four weeks from his being released on parole, from the prison, he does not re-enter the prison concerned, thereupon, it will operate as a bar to his thereafter claiming releases on parole, and, shall also operate as a bar for his claiming premature releases from the prison. Moreover, if on expiry of four weeks, the above lapse occurs thereupon, the Superintendent of Police concerned, shall cause his arrest, and, ensure his forthwith retrieval into the prison concerned.

7. The petition stands disposed of.

(SURESHWAR THAKUR)
JUDGE

May 31, 2022
Gurpreet

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