

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

219

**CRWP-6682-2021
Date of decision: 09.03.2022**

TARLOK SINGH @ BITTU

....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. J.S. Sidhu, Advocate for the petitioner.

Ms. A.K. Khurana, DAG, Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

1. The instant petition has been filed for quashing of the order dated 22.04.2021, whereby the application to the petitioner for grant of 08 weeks parole has been declined.

2. A perusal of the said order shows that the application submitted by the petitioner has been dismissed on the basis that the case of the petitioner for grant of parole has not been recommended by Senior Superintendent of Police, Fatehgarh Sahib.

3. In the reply filed by the State, it has been stated that the Senior Superintendent of Police, Fatehgarh Sahib has informed that the petitioner does not have any residence at the given address and there is no person who is ready to take responsibility of the petitioner if released on parole. The relevant extract of Senior Superintendent of

Police, Fatehgarh Sahib is reproduced as under:

“That vide letter No. 15516/A.C-3, dated 02.04.2021, (Annexure R3/1) the SSP, Fatehgarh Sahib has informed that the petitioner was sentenced to undergo imprisonment for a period of 10 years. It is further reported by the SSP, Fatehgarh Sahib, on 02.04.2021 that the petitioner does not have any residence on the given address at Peer Colony, Sirhind and nor any person is ready to take responsibility of the petitioner, if he is released on parole. In the light of these facts, the SSP, Fatehgarh Sahib did not recommend release of the petitioner on parole. The report of the SSP Fatehgarh Sahib regarding the address mentioned in the petition is more recent than the attached panchayatnama, as per record.

4. It is on the basis of aforesaid recommendations of the Senior Superintendent of Police, Fatehgarh Sahib and District Magistrate, Fatehgarh has dismissed the application filed by the petitioner for seeking parole for 08 weeks under the Punjab Good Conduct Prisoners (Temporary) Release Act, 1962.

5. I have heard learned counsel for the parties.

6. A perusal of the impugned order shows that the District Magistrate has not given any reasons or recorded any basis or satisfaction for declining the application filed by the petitioner for release on parole. The grounds on which such an application can be rejected is duly provided for in the scheme of the statute under Rule 3 (2) of the Rules of 1963. The relevant provisions is reproduced as under:-

“The Superintendent of Jail shall forward the application along with his report to the District Magistrate, who, after consulting the Superintendent of Police of his District, shall forward the case with his

recommendation to the Inspector-General. The Inspector-General will then record his views on the case whether the prisoner is to be released or not and submit the same to the Releasing Authority for orders. The District Magistrate, before making any recommendation, shall verify the facts and ground on which release has been requested and shall also give his opinion whether the temporary release on parole or furlough is opposed on grounds of prisoner's presence being dangerous to the Security of State or prejudicial to the maintenance of public order.

7. A perusal of the same would show that the District Magistrate should be satisfied that the release of the prisoner is dangerous to the security of State or prejudicial to the maintenance of public order. There is no such opinion recorded in the order by the competent authority. It is further worthwhile to consider herein that even at an earlier juncture, the application of the petitioner for grant of parole was rejected by the District Magistrate vide order dated 12.09.2019. The said order was subject matter of challenge in Criminal Writ Petition No. 1505 of 2019. Vide judgment dated 17.08.2020, the said petition was allowed by this Court and a direction was given to the respondent-authorities to release the petitioner on parole for a period of 06 weeks to repair his house.

8. It is also not controverted that the petitioner surrendered on time after availing the parole and had not misused the concessions so granted to him. It is also evident that the Panchayat of the area has duly written in favour of the petitioner and hence, it would not be proper on the part of the Senior Superintendent of Police, Fatehgarh Sahib to contend that nobody is willing to take responsibility on behalf of the

petitioner. The reasons assigned by the District Magistrate Fatehgarh Sahib do not fall within the parameters prescribed under the Punjab Good Conduct Prisoners (Temporary) Release Act, 1962 and the rules framed thereunder. The order is passed in a ministerial manner and has been passed ignoring the statutory mandate.

9. In view of the above, the instant petition is allowed and the order dated 22.04.2021 passed by the District Magistrate, Fatehgarh Sahib is set aside. Directions are given to the respondents to release the petitioner on 08 weeks parole in accordance with the procedure prescribed in law.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 09, 2022

vishal sharma

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>