

263 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP-8919-2021
Date of Decision: 07.04.2022

Joginder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Bhupinder Pal Kaur Brar, Advocate
for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J.(ORAL)

The present petition has been filed under Article 226 of the Constitution of India with a prayer to quash/cancel/set aside the impugned order dated 08.07.2021 (Annexure P-1) passed by the District Magistrate, Moga by which the prayer of the petitioner for grant of parole was declined. Learned counsel for the petitioner has submitted that the application for parole was declined by the District Magistrate on the ground that there is a threat to the security of the State. However, there was no material available with the competent authority to decline the parole in a mechanical manner by just stating that the security of the State was at risk. Learned counsel for the petitioner has relied upon the judgment of the Division Bench of this Court passed in CRWP No.5988 of 2021 titled 'Jatinder Singh vs. State of Punjab and others'.

This Court on 09.03.2022 permitted the State to file an additional affidavit of the District Magistrate, Moga in view of the aforesaid

averments made by the learned counsel for the petitioner. An additional affidavit has been filed by the District Magistrate, Moga on behalf of the respondent No.3. In paragraph 3 of the affidavit, it has been stated that there was no specific material available on record except police report with the competent authority to decline the parole only on the ground of security of the State. The report was again sought from Senior Superintendent of Police, Moga as to what material was available to show that there is a threat to the security of the State. The Senior Superintendent of Police, Moga vide letter dated 17.03.2022 has given reply. However, the Senior Superintendent of Police, Moga has not brought any specific material on record to show threat to the security of the State. It has further been stated in paragraph 4 of the affidavit that earlier also the petitioner was granted parole on three occasions and the petitioner has timely surrendered himself during the availment of parole and there is nothing on record to show that the petitioner has misused the benefit of parole.

I have heard the learned counsel for the parties.

By way of additional affidavit, the District Magistrate has now submitted that there is no material available to show that there is threat to the security of the State and apart from the same, the petitioner had earlier also availed the benefit of parole three times and has surrendered on time and there is nothing on record to show that the petitioner has misused the parole.

Therefore in view of the law laid down by this Court in Jatinder Singh (supra), the present petition is allowed and the impugned order dated 08.07.2021 (Annexure P-1) passed by the District Magistrate is hereby set aside. The petitioner is held to be entitled for parole for a period of 8 weeks.

The competent authority is directed to pass the necessary orders for the temporary release of the petitioner on parole for a period of 8 weeks

subject to his furnishing requisite surety bonds to the satisfaction of the competent authority with an undertaking to maintain peace and good behaviour during the period of parole and also to surrender in jail after the expiry of such period.

Petition stands allowed.

(JASGURPREET SINGH PURI)
JUDGE

April 07, 2022
Manpreet

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