

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

THROUGH VIDEO CONFERENCING

CRWP-10227-2021

Date of Decision: 14.1.2022

Rakesh Kumar

....Petitioner

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. D.S.Virk, Advocate,
for the petitioner.

Mr. B.S.Sewak, Addl. AG, Punjab.

KARAMJIT SINGH, J. (Oral)

The petitioner has filed the present criminal writ petition seeking directions to the respondents to release the petitioner on parole for 6 weeks, to meet his family.

On notice, the reply was filed on behalf of the State by way of affidavit of Rajdeep Singh Brar, Officiating Superintendent, Central Jail, Patiala, as per which, the case of the petitioner regarding his release on parole was considered and declined by Additional Director General of Police (Prisons), Punjab vide order dated 16.7.2021 on the ground that Superintendent of Police did not recommend release of the convict on parole on the ground that if so released, the petitioner would disturb the peace.

Counsel for the petitioner contended that prayer of the petitioner for grant of parole was wrongly declined by Additional Director General of Police (Prisons), Punjab on the basis of recommendations made by the local police authorities. It is further contended that the local police authorities made recommendations against the petitioner just on the basis of conjectures and surmises just by taking into consideration the fact that the petitioner was also convicted in two other similar cases under NDPS Act.

Counsel for the State while supporting the impugned order contended that there is apprehension in the mind of the local police officials that in case of release, the petitioner would again start indulging in drug trafficking.

I have considered the submissions made by the counsel for the parties.

The Court is of the view that concession of parole could not be declined to the petitioner just on the ground that there are two other convictions under NDPS Act against him. The concerned authorities failed to clarify as to how the release of the petitioner would disturb the peace in the area. The aforesaid apprehension which is there in the mind of the concerned authorities is not based on any material or document except for the fact that the petitioner has been convicted in 3 cases under NDPS Act. It is well settled proposition that every executive decision has to be well reasoned. The same cannot be based on mere assumptions.

In view of the above, order dated 16.7.2021 passed by Additional Director General of Police (Prisons), Punjab being non-speaking is hereby set aside. A direction is hereby issued to Additional Director

for grant of parole and pass appropriate speaking order afresh within a period of 15 days from the date of receipt of a certified copy of this order and the decision taken thereon be conveyed to the petitioner.

January 14, 2022

Paritosh Kumar

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No