

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

CRWP-9062-2022
Date of Decision: 15.11.2022

Joginder Singh @ Jindri

.....Petitioner(s)

Versus

State of Punjab and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Krishan Kanha, Advocate,
for the petitioner.

Mr. Arjun Sheoran, DAG, Punjab.

G.S.SANDHAWALIA, J. (Oral)

Prayer in the present petition is for release of the petitioner on parole for a period of at least 8 weeks under Section 3(1)(c) of Punjab Good Conduct Prisoner (Temporary Release) Act, 1988. The rejection of the said request vide order dated 15.03.2022 (Annexure P-5) by the District Magistrate, Moga is on the ground that there is apprehension of the convict absconding during parole and there is threat to State security and maintenance of public order.

Counsel for the petitioner has submitted that the conviction is for a period of 20 years arising out of FIR No. 297 dated 14.10.2013 under Sections 376-D and 201 IPC, P.S. Sadar Nakodar, District Jalandhar recorded by the Additional Sessions Judge, Jalandhar on 21.05.2009. It is submitted that in similar circumstances, prayer for parole of co-convict namely Chhinder Singh @ Shinder Singh @ Shinda was rejected by the District Magistrate, Moga on 30.12.2021 and CRWP-1034-2022 filed against the said order was allowed on 18.04.2022 by this Court whereby, directions were

given to release him on parole for a period of 5 weeks from the date of release

on furnishing of requisite bail bonds. The relevant portion of the said order reads thus:-

“In the affidavits filed by respondent Nos. 1 and 2 and respondent No.3 separately, the order has been justified and it has been admitted that during trial in FIR No. 297 dated 14.10.2013, in which he had been convicted, the petitioner had been granted regular bail on 22.07.2015. It is thus not disputed that the petitioner has undergone 2 years, 9 months and 10 days of actual custody after conviction as per custody certificate dated 03.03.2022 and has not been released on parole since 21.05.2019. The District Magistrate, Moga has referred to the FIRs registered against him but the details as such have not been mentioned and reliance has been placed upon report of the SSP, Moga that his case is not recommended for release on parole as it does not fall under the purview of the guidelines of the High Power Committee as such, which in the considered opinion of this Court, was on account of the Covid-19 pandemic.

*Thus, apparently, the ground which prevailed with the District Magistrate, Moga as such is not liable to be sustained as the purpose of release on parole is a wing of reformatory process, which has been held in **Arun Kumar vs. State of U.T., Chandigarh and others, 2011 (2) AICLR 361**. Similarly, in **Ram Chander vs. State of Punjab and others, 2017 (3) RCR (Crl.) 340**, it has been held that in the absence of any material before the District Magistrate, the denial of benefit of parole on security grounds would not be justified which is being prayed for meeting the family members. The custody certificate would also go on to show that the petitioner as such has been acquitted in two of the cases, which have been mentioned and he is on bail in FIR No. 64 dated 06.05.2018 and there is no reference*

of the fifth case as such, at least in the custody certificate. As noticed above, the details of the cases have not been given in the reply also filed by the District Magistrate, Moga i.e. respondent No.3.

In such circumstances, keeping in view the fact that the petitioner had also availed the benefit of bail during trial and thereafter attended proceedings and was taken into custody, we are of the opinion that the reasoning given as such that he would abscond is not justified and the petitioner is entitled for the benefit of parole. Accordingly, the order dated 30.12.2021 is quashed.

He accordingly be released on parole for a period of 5 weeks from the date of release on furnishing the requisite bail bonds to the satisfaction of the competent authority and he shall surrender back in time in the jail on the expiry of the said period after his release. It is, however, made clear that the petitioner shall not enter the jurisdiction of Jalandhar district keeping in view the fact that the conviction is under Section 376-D IPC and the prosecutrix is based there, which was one of the reasons as such the case had been declined on an earlier point of time.

The petition is allowed in the above terms.”

A perusal of the order of the District Magistrate would also go on to show that in two cases i.e. in FIR Nos. 342 and 98, the petitioner has also been acquitted whereas another FIR No. 64 dated 06.05.2018 under Sections 379-B, 506, 148, 149 stands registered at Police Station Dharamkot, which is under trial.

In the considered opinion of this Court, for the reasons given in the case of co-convict, sufficient cause as such is made out to hold that the petitioner is entitled for the same benefit as the order of the District

Magistrate was also passed in the same terms. Admittedly, on an earlier occasion also, there is no adverse report of the co-convict that he misused the benefit of parole.

Accordingly, the petition is allowed in the same terms. He accordingly be released on parole for a period of 5 weeks from the date of release on furnishing the requisite bail bonds to the satisfaction of the competent authority. He shall surrender back in time in the jail on the expiry of the said period after his release. It is, however, made clear that the petitioner shall not enter the jurisdiction of Jalandhar district keeping in view the fact that the prosecutrix is based there.

(G.S. SANDHAWALIA)
JUDGE

15.11.2022
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No