

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

**CRWP No.9063 of 2022 (O&M)
Date of decision: 16.11.2022**

RAMPHAL

.... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.... Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Mr. Abhaysher Singh, Legal Aid Counsel
for the petitioner.

Mr. Ishma Randhawa, Addl.A.G, Punjab.

MANISHA BATRA, J (ORAL)

The petitioner-Ramphal has filed the present petition under Articles 226/227 of the Constitution of India for quashing the order dated 25.05.2022 (Annexure P-2) passed by respondent No.2-Deputy Commissioner, Mansa, whereby the prayer made by the petitioner for grant of temporary release/parole had been rejected.

Briefly stated, the petition has been filed on the grounds that the petitioner was held guilty and convicted in case bearing FIR No.82 dated 02.08.2018 registered under Sections 376&506 IPC read with Sections 3, 4 and 6 of POCSO Act, 2012 at Police Station Bareta, District Mansa. He was awarded rigorous imprisonment for a period of 10 years for the offence committed under Section 376(2)(f) IPC and rigorous imprisonment for 20 years for commission of offence punishable under Section 376-AB IPC apart from imposition of fine. He requested the respondent No.2-Deputy

Commissioner, Mansa for temporary release/parole, but the same was rejected by the Deputy Commissioner, Mansa vide order dated 25.05.2022. Feeling aggrieved by the said order, the petitioner has filed the present petition.

Learned counsel for the petitioner has submitted that the petitioner has been in jail for more than 4 years and 3 months, and his conduct is good throughout. He has not been able to be in touch with his family consisting of his wife and six children (all below the age of 15 years). He is not a hardcore prisoner. He wanted to restore his social ties with his family. Respondent No.2 has dismissed his prayer on the ground that 8 criminal cases were registered against him and if he came out on parole then he would sell drugs again. The findings so given are violative of Articles 14 and 21 of the Constitution of India and are contrary to the intents and purpose of The Punjab Good Conduct Prisoners (Temporary Release) Act, 1962. The petitioner had been released on parole at earlier instance also and, therefore, the presumption as made by respondent No.2, is baseless.

Reply as well as custody certificate have been filed on behalf of the respondent-State. The same are taken on record.

Learned State counsel opposed the prayer made by the petitioner and has referred to the reply by urging that the parole case of the petitioner has not been recommended by respondent No.2 on reasonable grounds, the petitioner is a habitual offender and as many as 8 other criminal cases were registered against him and he has been convicted in 4 cases, out of which one case is registered under the provisions of NDPS Act. He further submitted that if concession of parole is granted to the petitioner, he can disturb the public peace and tranquility, and may also engage in supply of contrabands or might

involve himself in some anti-social activities. Therefore, it is urged that the prayer made by the petitioner is liable to be declined.

We have considered the respective submissions of the counsel for the parties.

Undoubtedly, parole is not a vested right of a prisoner, rather it is a right granted by Statute and can be declined in case the temporary release of the prisoner is likely to cause any danger to the security of the State or disturb the public order or there is any reasonable apprehension of breach of peace. The apprehension of the State must be based on some material in its possession from where it can be inferred that the breach is likely to occur, in case, the convict is released temporarily. However, no such material has been produced on record by the respondents. The apprehension expressed by the respondents that if the concession of the parole is granted to the petitioner, then there would be threat to public peace and tranquility or that he may engage himself in supply of contrabands in society, is not substantiated. As per the reply, the petitioner has been involved in 8 other criminal cases, out of which, in 4 cases he has been shown to be convicted. However, he does not fall within the definition of hardcore criminals. The respondents have also not brought any material on record to show that in case of release of petitioner, there would be threat to security to State and breach of peace.

In view of the above, the present petition is hereby allowed and the impugned order dated 25.05.2022 is hereby set aside. The petitioner is ordered to be released on parole for a period of four weeks subject to his furnishing personal/surety bonds to the satisfaction of District Magistrate, Mansa.

It is needless to mention that the concerned District Magistrate shall impose necessary conditions in his/her order for releasing the petitioner on parole for securing the presence of the petitioner after completion of parole period and breach of any condition imposed, would lead to immediate cancellation of the release order.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

November 16, 2022
Jyoti-IV

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