

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

208

CRWP-23-2022

Date of Decision: April 7, 2022

Malkeet Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

**CORAM: HON'BLE MR. JUSTICE G. S. SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present:- Mr.L.M.Gulati, Advocate, for the petitioner.

Mr.SPS Tinna, Addl.A.G., Punjab.

G.S. SANDHAWALIA, J. (Oral):

The present writ petition, filed under Article 226 of the Constitution of India is directed against the order dated 10.12.2020 (Annexure P-1) passed by the District Magistrate, Amritsar whereby the request of the petitioner for parole had been rejected on the ground that the petitioner is undergoing life sentence in FIR No.22 dated 19.03.2016 under Sections 302, 341, 148 & 149 IPC registered at Police Station Bhindi Saidan along with fine of Rs.5000/-. It has been held out that though there was a panchayatnama in favour of the petitioner but it was not found correct as there is stated to be a threat to State security and maintenance of public order in case he comes out on parole. It was accordingly noted in the impugned order that some untoward incident could happen as the petitioner is a short-tempered person and a hyper person and therefore, recommendation was given in the negative for grant of 6 weeks parole asked for.

Counsel for the petitioner submits that the conviction was on 16.07.2019 and as per the custody certificate dated 28.03.2022 (Annexure R-1) now filed, the petitioner has been behind bars from 25.03.2016 and has never been granted the benefit of parole and has undergone actual

custody of 6 years and 2 months out of the life sentence awarded. It is thus submitted that it is for the State to ensure that there is no threat of any breach of security and there is nothing against the petitioner that he is of such nature or character and the State cannot be in a position to monitor him during his release on parole for the purpose of meeting his family members. It is further pointed out from the custody certificate that his conduct in the jail is not of any such objectionable nature and neither any case has been registered against him during his period of incarceration.

Keeping in view the above, this Court is of the opinion that the purpose of provisions of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 has been lost sight by the decision making authority. Merely on a mechanical report of the police that there will be a breach of peace in case the petitioner will be released, the denial has been there, which would not be sufficient ground. It is settled principle that release on parole is part of the reformatory process. The Division Bench in ***Arun Kumar vs. State of U.T., Chandigarh and others, 2011 (2) AICLR 361*** held that release of convict on parole is a wing of reformatory process. The provisions of the Act have been enacted as a reformatory measure with an object to enable the prisoner to have family association or to perform certain family obligations and rituals. Sufficient material should be available and there should be solid reasons for declining temporary release on parole.

Similarly, in ***Ram Chander vs. State of Punjab and others, 2017 (3) RCR (Crl.) 340***, it was held that in the absence of any material before the District Magistrate, denial of benefit of parole as such would not be justified which was being prayed for, for meeting the family members.

Keeping in view the settled principles of law and the fact that the petitioner has been in custody for over 6 years and has not been able to come out to meet his family even once the rejection cannot be held to

be justified in any manner.

Accordingly, the present petition is allowed and the impugned order dated 10.12.2020 (Annexure P-1) is quashed. The petitioner shall be released on parole for a period of 6 weeks on furnishing the requisite bail bonds to the satisfaction of the competent authority and he shall surrender back in time in jail premises on the expiry of the said period after his release.

(G. S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

APRIL 7, 2022
sailesh

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