

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CRWP-10500-2022 (O&M)
Date of Decision: 02.12.2022

Kashmir Ram @ Pappy

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Ms. Bandana Trikha, Advocate
for the petitioner.

Mr. Amish Sharma, Asstt. A.G., Punjab.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition under Article 226 of the Constitution of India is seeking grant of parole of 8 weeks which has been rejected by impugned order dated 03.10.2022 passed by Deputy Commissioner, Jalandhar.

Learned counsel for the petitioner would submit that the petitioner during last 04 years has been granted parole on 05 earlier occasions and every time, he had surrendered within time and he has not committed any offence during his period of parole. The petitioner is not involved in any other case and total sentence awarded is 10 years and he has already suffered incarceration of 03 years, 06 months and 23 days.

Learned State counsel has filed affidavit of Lalit Kumar Kohli, Superintendent Central Jail, Shri Goindwal Sahib disclosing that the petitioner has been convicted in FIR No.89 dated 04.05.2014, under Sections 15, 61, 85 of NDPS Act, registered at Police Station Phillaur,

District Jalandhar.

Custody certificate dated 01.12.2022 filed by learned State counsel is taken on record. As per custody certificate, the petitioner has been awarded sentence of 10 years and he has already suffered actual sentence of 03 years, 06 months and 23 days.

As per affidavit, parole case of the petitioner was forwarded by office of District Magistrate, Jalandhar to the office of Senior Superintendent of Police, Jalandhar for obtaining the police verification report from police authority of District Jalandhar. The office of Senior Superintendent of Police, Jalandhar filed its report dated 26.09.2022 reporting that the petitioner is a famous smuggler and may indulge in drug trafficking during parole. The law and order may be disturbed and it may lead danger to the state security. The crime of drug trafficking will ruin the youth.

From the perusal of impugned order denying parole, it transpires that order has been passed in a mechanical manner. The order was passed by Deputy Commissioner, Jalandhar. In the impugned order, there is discussion about two more FIRs registered under NDPS Act. Both the FIRs were registered prior to registration of FIR wherein the petitioner has been convicted and suffering incarceration.

It is important to note that the petitioner was granted parole 05 times after conviction in FIR No.89 dated 14.05.2014 which is post registration of FIR dated 03.01.2003 and 26.06.2003. The petitioner has not committed any offence after 2014 and he has not misused the concession of parole.

In such circumstances, I am of the considered opinion that

rejection only on the ground that there is an adverse report from the concerned police authorities could not be a justified and a valid ground for declining the benefit of parole. A Division Bench of this Court in CRM-M-34013 of 2009 titled as “Varun @ Gullu vs. State of Haryana and others” decided on 26.04.2010 has laid down certain guidelines which were followed in Arun Kumar Vs. State of U.T.Chandigarh and others, 2011.
(2) AICLR 361 and in Ram Chander vs. State of Punjab and others, 2017.
(3) RCR (Crl.) 340.

It has been held that in the absence of any adverse material before the District Magistrate, denial of benefit of parole is not justified and the provisions of the Act have been enacted as a reformative measure with an object to enable the prisoner to have family association or to perform certain family obligations and rituals. Therefore, declining temporary release on parole just on the ground of an adverse report would not be sustainable.

Keeping in view the above, the present petition is allowed and the impugned order dated 03.10.2022 (Annexure P-1) is quashed. The petitioner shall be released on parole for a period of of 6 weeks, on furnishing the requisite bail bonds to the satisfaction of competent authority and he shall surrender back in time with the jail authorities on the expiry of said period after his release.

(JAGMOHAN BANSAL)
JUDGE

02.12.2022
anju

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No