

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

249

CRWP-10923-2022

Decided on :07.12.2022

Sadhu Singh

.....Petitioner(s)

Versus

State of Punjab & others

.....Respondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

HON'BLE MS.JUSTICE HARPREET KAUR JEEWAN

Present: Mr.R.S.Sekhon, Advocate for the petitioner (s).

Mr.Arjun Sheoran, DAG, Punjab.

G.S. Sandhawalia, J. (Oral)

Petition has been filed under Articles 226/227 of the Constitution of India by the petitioner for grant of parole to meet his family and on account of the fact that his sister is getting married on 09.12.2022.

The petitioner was convicted on 01.04.2022 in FIR No.14 dated 25.01.2019 under Sections 21, 23, 29, 61 & 85 of the NDPS Act registered at Police Station Sadar, Fazilka, District Fazilka for 12 years. The rejection on 31.10.2022 (Annexure P-1) by the Superintendent, Central Jail, Ferozepur was on account of recovery of 900 grams of heroin and therefore, keeping in view the heavy recovery of the contraband and due to apprehension of threat to the security of the country, the local police had objection.

We are of the opinion that it is a stereotype order passed by the authorities repeatedly which only goes on to show the non-application of mind by the authorities inspite of the fact that there are dozens of judgments by the Co-ordinate Benches on this ground. A Division Bench of this Court in **Ram Chander vs. State of Punjab and others 2017(3) R.C.R. (Criminal) 340**, while taking into account the judgment in CRM-

M No.34013 of 2009 titled Varun @ Gullu vs. State of Haryana and

others, decided on 26.04.2010, had noticed that the benefits of parole and furlough are regulated by a statute and the authorities cannot act arbitrarily, capriciously or without due application of mind. Declining the request for parole or furlough only for the reason of apprehension of breach of peace, for which there is no such condition under the Act, was held not to be justified.

The Apex Court in **Asfaq vs. State of Rajasthan and others, 2017 (15) SCC 55** also dealt with the issue of provisions of parole and furlough and held that a humanistic approach is to be adopted against those who are lodged in jails. The relevant portion reads thus:-

“15) The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. Main purpose of such provisions is to afford to them an opportunity to solve their personal and family problems and to enable them to maintain their links with society. Even citizens of this country have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, without employment prospects, without a fundamental knowledge of the communities to which they will return, and without resources, stand a significantly higher chance of failure. When offenders revert to criminal activity upon release, they frequently do so because they lack hope of merging into society as accepted citizens. Furloughs or parole can help prepare offenders for success. 16) Having noted the aforesaid public purpose in granting parole or furlough, ingrained in the reformation theory of sentencing, other competing public interest has also to be kept in mind while deciding as to whether in a particular case parole or furlough is to be granted or not. This public interest also demands that those who are habitual offenders and may have the tendency to commit the crime again after their release on parole or have the tendency to become threat to the law and order of the society, should not be released on parole. This aspect takes care of other objectives of sentencing, namely, deterrence and prevention. This side of the coin is the experience that great number of crimes are committed by the offenders who have been put back in the street after conviction. Therefore, while

deciding as to whether a particular prisoner deserves to be released on parole or not, the aforesaid aspects have also to be kept in mind. To put it tersely, the authorities are supposed to address the question as to whether the convict is such a person who has the tendency to commit such a crime or he is showing tendency to reform himself to become a good citizen.

17) Thus, not all people in prison are appropriate for grant of furlough or parole. Obviously, society must isolate those who show patterns of preying upon victims. Yet administrators ought to encourage those offenders who demonstrate a commitment to reconcile with society and whose behaviour shows that aspire to live as law-abiding citizens. Thus, parole program should be used as a tool to shape such adjustments.”

It is in such circumstances, we feel that the order as such declining the benefit is without any sustainable reasons. The custody certificate would also go on to show that there is no other case against the petitioner and that he has undergone 3 years 10 months and 6 days of detention. In such circumstances, the petitioner is entitled for the benefit of parole.

Accordingly, the present petition is allowed and the impugned order dated 31.10.2022 passed by respondent No.3 is hereby quashed. The petitioner shall be released on parole for a period of 6 weeks on furnishing of 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

07.12.2022
sailesh

(HARPREET KAUR JEEWAN)
JUDGE

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