

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

208

CRWP-400-2023

Date of Decision : January 30, 2023

SWARAN SINGH

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. S.S. Jattan, Advocate
for the petitioner.

Mr. P.P. Chahar, DAG, Haryana.

SURESHWAR THAKUR, J.(ORAL)

1. The petitioner herein, became convicted by the learned convicting court concerned, qua offences punishable under Sections 302, 341, and, 34 of IPC, in FIR No. 05 dated 19.01.2018, registered at P.S. Naggal, District Ambala, and, consequent thereto, he became sentenced to undergo life imprisonment.

2. The petitioner, as averred in the petition, has, up to 08.08.2022, i.e. when he sought his being granted the facility of parole, spent about 4 years, 6 months, and, 12 days, in prison. Earlier also, the petitioner had availed facility of parole lasting from 09.06.2022 to 24.06.2022.

3. However, the competent authority, in dismissing the said application, rested its order of dismissal, on the prime fact that since the house of the convict is in the vicinity of the house of the deceased Karamvir, and, since yet, there is acrimony between the family of the convict, and, the family of the deceased, therefore, there is every likelihood

of peace in the area concerned, becoming disturbed, on the petitioner becoming granted the facility of parole.

4. The impugned order, with the above reasoning, is enclosed in Annexure P-2. The making of Annexure P-2 has led the petitioner/convict to throw a challenge thereto, through his casting the instant petition before this Court.

5. After notice being given to the learned State counsel, reply on affidavit, to the writ petition has been furnished. A reading of the relevant paragraph No.3 of the reply, on affidavit, furnished to the writ petition, by the respondent concerned, discloses that on two earlier occasions, the petitioner had availed the facility of parole, and, that on termination of the period of parole, he had *suo motu* entered into the prison concerned. However, there is no speaking therein about the petitioner, during the period of the earlier availed facility of parole, taking to disturb the peace of the area concerned, and/or, through his indulging in any untoward activity, his creating a law and order problem, in the area concerned.

6. If so, the above was a relevant factor to be borne in mind by the authorities concerned in rather allowing the apposite application, than making an order of dismissal thereon, and, resting the same on the premise, that since the respective abodes of the family of the petitioner/convict, and, the family of the deceased, adjoin each other, therefore, there is every likelihood of peace in the area becoming disturbed. More so, when on the earlier occasions, there was no disturbance to the peace of the area concerned nor any law and order problem was created, at the instance of the petitioner. Therefore, the above likelihood of the petitioner, on being granted parole, rather disturbing the peace of the area concerned, appears to

be a merely surmisely made reason, and, does not deserve to be countenanced by this Court.

7. This Court finds merit in the instant petition, and, is constrained to allow it. Accordingly, the instant petition is **allowed**, and, the impugned order is quashed and set aside, and, the petitioner is ordered to be released from the prison concerned. The period of parole shall last up to a period of 2 weeks from the date, when he steps out of the prison concerned. Further, on expiry of the period of 2 weeks, the petitioner shall voluntarily step back into the prison concerned, but, if he does not do so, thereupon, the SHO of the jurisdictional police station concerned, shall draw non bailable warrants for causing the arrest of the petitioner, whereafter, he shall ensure that the petitioner is produced before the jurisdictionally empowered Magistrate, so that, the latter makes an order for remanding, or, committing him to judicial custody.

8. Disposed of in the above terms.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

January 30, 2023
devinder

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