

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

211

CRWP-708-2023

Date of Decision: 12.05.2023

Ashu

..... Petitioner

Versus

State of Punjab and others

..... Respondents

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

Present: Mr. K.S. Brar, Advocate
for the petitioner.

Mr. Alankar Narula, A.A.G., Punjab.

RITU BAHRI, J. (ORAL)

1. The present petition has been filed by the petitioner- Ashu under Article 226 of the Constitution of India for setting aside order dated 01.12.2022 (Annexure P-1) passed by respondent No.3- District Magistrate, Sri Muktswar Sahib, whereby the request of the petitioner for grant of parole for eight weeks had been rejected.

2. The present petition has been filed by the petitioner on the ground that he was held guilty and convicted by the trial Court vide judgment dated 12.10.2021 in case bearing FIR No. 230 dated 02.07.2020 registered under Section 20-C, 29 of the NDPS Act, 1985 at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib. He had been sentenced to undergo rigorous imprisonment for 12 years under Section 20(C) of the NDPS Act and to pay a fine of Rs. 1,50,000/- and in default of payment of fine, further to undergo rigorous imprisonment for a period of two years.

Appeal bearing No. CRA-D-685-2021 has been filed by him against the said judgment, which is pending before this Court.

3. The petitioner approached respondent No.3 to release him on parole for eight weeks to meet his family members and to look after household affairs. Respondent No.3 after receiving the report from concerned Police Station, did not recommend the parole case of the petitioner and rejected the same vide the impugned order dated 01.12.2022 (Annexure P-1). Feeling aggrieved, he has filed the present petition.

4. Learned counsel for the petitioner has contended that the petitioner has three minor children and he has not met them for long time. Hence, the petitioner be released on parole for a period of eight weeks.

5. On the other hand, learned State counsel has opposed the prayer made by petitioner by way of reply filed in the Court which is taken on record and states that if he is released on parole he can indulge again in the business of intoxicant.

6. As per the custody certificate the petitioner has undergone total sentence 02 years, 10 months and 08 days in custody and acquitted in a case under Section 498-A, 406 & 494 IPC. There is no other case under the NDPS is pending against him. As per order Annexure R-1/T, for rejecting his application for parole reference has been made to three criminal cases registered against the petitioner.

7. Counsel for the petitioner submits that in all these three cases he has been acquitted, as stated in paragraph 8 of the paper-book and this fact has not been disputed and replied on merits and the facts stated are

taken to be matter on record and paragraph 12 it is also stated that apart from this case, there is another FIR registered under Section 498-A IPC. There is no other case registered against him and even in case under Section 498-A IPC he has been acquitted on 17.02.2022. The only ground that after coming on parole, he can again indulge in the business of intoxicant, cannot be made a ground to reject his application for parole.

8. Taking all these circumstances into consideration, the petition is hereby allowed. Impugned order dated 01.12.2022 (Annexure P-1) is 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 the concerned District Magistrate.

9. Concerned District Magistrate, may impose such conditions as may be necessary to secure the presence of the petitioner in jail after the parole is over and to ensure that the temporary release is not misused.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

12.05.2023

Satyawan

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