

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

210

CRWP-1643-2023

Date of decision:- 14.03.2023

HARI CHAND ALIAS BILLU

.... Petitioner

Vs.

STATE OF UT CHANDIGARH AND OTHERS

...Respondents

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

Present: Mr. Hoshiar Singh Jaiswal, Advocate for the petitioner.

Mr. Deepinder Brar, Addl. P.P., U.T., Chandigarh.

Manisha Batra, J. (Oral)

The present petition has been filed by the petitioner-Hari Chand @ Billu under Articles 226 of the Constitution of India for setting aside order dated 02.02.2023, passed by the Inspector General of Prisons, U.T., Chandigarh, (Annexure P-8) whereby the request of the petitioner for grant of parole had been rejected.

The present petition has been filed by the petitioner on the ground that he was held guilty and convicted by the Court of learned Additional Sessions Judge, Chandigarh vide judgment dated 27.04.2018

in case bearing FIR No.85, dated 25.07.2017 registered under Sections 376, 354, 506 of IPC and Sections 4, 6 and 8 of POCSO Act, registered at Police Station Maloya, Chandigarh. He had been sentenced to undergo rigorous imprisonment of 20 years. Appeal bearing No.CRA-881-DB-2018 has been filed by him against the said judgment, which is pending before this Court.

The petitioner approached respondent No.1 to release him on parole for 28 days to meet his family members. Respondent No.1 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 02.02.2023. Feeling aggrieved, he has filed the present petition.

Learned counsel for the petitioner contended that the petitioner has not met his family members for the long time. Hence, the petitioner be released on parole for a period of 28 days.

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. The parole case of the petitioner was duly initiated and was rejected by the Inspector General of Prisons, U.T., Chandigarh on the ground that there were chances of petitioner's disturbing the State security and maintenance of public order if extended benefit of parole. It is further submitted that even otherwise, the petitioner has not been maintaining residence at the address previously disclosed i.e. House No.2559/1, Sector 38, Chandigarh for the last 2-3 months. It is submitted that his release is likely to endanger the security of the State Government

and the maintenance of public order. Hence it is urged that the petition does not deserve to be allowed.

We have heard learned counsel for the parties.

As per the reply submitted by the State, the petitioner has not been found residing at the address previously disclosed i.e. H.No.2559/1, Sector 38, Chandigarh for the last 2-3 months. However, Smt. Sona Rani, wife of the applicant, who is present in Court has furnished an affidavit sworn by her today itself to the effect that she is permanently residing at House No. 2559/1, Sector 38, Chandigarh along with her son. This house is in the name of her father-in-law, who has since expired and it is only occasionally that she goes at her parental house at Patiala. The apprehension of the respondents is not substantiated by any material and therefore the plea that there are chances of disturbing the state security or maintenance of public order cannot be made a ground to reject the prayer made by the petitioner. In view of the submissions made in the affidavit sworn by the wife of the petitioner, we are satisfied that the address as disclosed is the permanent abode of the petitioner. It is relevant to mention that Section 3(1)(aa) of the Punjab Good Conduct Imprisoners' (Temporary Release) Act, 1962, permits temporary release of prisoner on parole on the grounds as mentioned therein.

Taking all these circumstances into consideration, the petition is hereby allowed. Impugned order dated 02.02.2023 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.

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) (MANISHA BATRA)
JUDGE JUDGE

14.03.2023
pooja saini

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