

2023:PHHC:096071-DB
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

206

CRWP-1985-2023

Date of decision:- 25.07.2023

Sandeep Singh

.... Petitioner

Vs.

State of Punjab and others

...Respondents

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

Present: Mr. Gaurav Chadda, Advocate for the petitioner.

Mr. Alankar Narula, AAG, Punjab.

Manisha Batra, J. (Oral)

The present petition has been filed by the petitioner-Sandeep Singh under Articles 226 of the Constitution of India for setting aside order dated 26.10.2022, passed by the Deputy Commissioner-cum-District Magistrate, Moga, (Annexure P-3) 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 Special Judge, Moga vide judgment dated 29.03.2022 in case bearing FIR No.36, dated 09.06.2019 registered under Section 376-D of IPC and Section 4 of POCSO Act, 2012 registered at Police Station Mehna, District Moga. He had been sentenced to undergo rigorous imprisonment for twenty years for offence under Section 376-D of IPC and Section 4 of

POCSO Act, 2012. Appeal bearing No.CRA-D-527-2022 has been filed by him against the said judgment, which is pending before this Court.

The petitioner approached respondent No.2 to release him on parole for 8 weeks to meet his family members. Respondent No.2 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 26.10.2022 Feeling aggrieved, he has filed the present petition.

Learned counsel for the petitioner argued that respondent No.2 had rejected his prayer for grant of parole without any justifiable ground and therefore, it is urged that the impugned order is liable to be set aside.

On the other hand, learned State counsel has opposed the prayer made by petitioner by way of reply filed in the Court, along with custody certificate, which are taken on record. The parole case of the petitioner was duly initiated and was rejected by respondent No.2. There were chances of petitioner's disturbing the State security and maintenance of public order if extended benefit of parole. Hence, it was urged that the petition did not deserve to be allowed.

We have heard learned counsel for the parties.

As per the reply submitted by the State, the petitioner has concealed the true facts in the present petition. The only reason given by respondent No.2 for rejecting the prayer made by the petitioner is that his release might disturb the law and order and may lead to danger to the State security. This apprehension, however, is not substantiated by any material and hence cannot be made a ground to reject the prayer made by 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 26.10.2022 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

25.07.2023

pooja saini

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No