

2023:PHHC:058493

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRWP-1838-2023

Date of Decision: April 25, 2023

Bhola Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Parminder Singh Sekhon, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab

Vivek Puri, J.

1. The present petition under Article 226 of the Constitution of India read with Section 3 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (hereinafter referred to as 'the Act') has been moved for seeking to quash the impugned order dated 05.01.2023 (Annexure P-1) passed by the respondent no.2 and for issuance of a writ in the nature of mandamus directing the respondents to release the petitioner on a parole for 8 weeks to socialize and to look after his family.

2. The petitioner has been convicted and sentenced to undergo rigorous imprisonment for a period of 7 years in case bearing FIR No. 192, dated 04.07.2017, under Sections 353, 333, 332, 186, 148, 149 IPC, registered at Police

Station City Barnala, District Barnala. An appeal has been preferred and the same is pending in this Court. The petitioner had applied for parole by submitting an application to respondent no.4 and the same was forwarded to respondent no.2 for further necessary action. The parole has been declined to the petitioner in terms of the impugned order dated 05.01.2023. The respondent no.3 i.e. the Senior Superintendent of Police, Barnala, District Barnala had submitted a report to the respondent no.2 in which it has been stated that there is danger to the maintenance of the public and State security, in the event of release of the petitioner on parole. The petitioner is stated to be more than 72 years of age and suffering from various health issues.

3. The petition has been resisted by the respondents. It has been alleged that the petitioner had submitted a panchayatnama with recommendation of the village panchayat before the respondent no.4 to initiate his eight weeks parole case. The verification report was received in which, it was reported that in the event, the petitioner is granted parole, he will indulge in criminal activities. There is a threat to the life and liberty of other people and security of the State. Accordingly, the case of the parole of the petitioner was not recommended. It has also been pointed out that the petitioner is involved in other cases.

4. I have heard learned counsel for the parties.

5. At the very outset, it may be mentioned here that the petitioner is stated to be involved in 03 other cases, particulars whereof are given herein below:-

- a) FIR No. 121 dated 28.05.2009, under Sections 307, 341, 323, 325, 148, 149 IPC, Police Station City Barnala, District Barnala;
- b) FIR No. 207, dated 03.09.2019, under Sections 323, 341, 367, 342, 148, 149 IPC, Police Station City Barnala, District Barnala;
- c) FIR No. 255, dated 19.10.2009, under Sections 307, 323, 427, 148, 149 IPC, Police Station Barnala, District Barnala.

6. Learned counsel for the petitioner has pointed out that the petitioner has been acquitted in first two cases and even the 3rd case has been disposed of. It shall not be out of place to mention here that two of the above cases pertain to the year 2009. The petitioner is presently stated to be aged about 72 years.

7. The apprehension of the respondents that the petitioner may indulge in criminal activities appear to be hypothetical. Furthermore, to dispel and allay the apprehension, adequate conditions can be imposed upon the petitioner and his conduct can be kept under watch during the period of parole. The reasons assigned for declining the parole to the effect that there is danger to the State security

and to the maintenance of public order cannot be termed to be a sufficient ground to decline the relief as sought by the petitioner as the likelihood of commission of any crime cannot be termed to be a real and genuine apprehension. It has not been reported that the conduct of the petitioner in jail was in any manner not satisfactory. Consequently, the petitioner has successfully made out a good case for the release on temporary parole as per the provisions of Section 3(1)(d) of the Act.

8. For the aforesaid reasons, the petition is allowed, the impugned order dated 05.01.2023 is set aside and the petitioner is ordered to be released on temporary parole for eight weeks from the date of release to the satisfaction of the District Magistrate concerned. It is further directed to impose such conditions as may be required in jail manual, towards the ends of securing the presence of the petitioner in jail after the period of parole is over and the temporary parole is not mis-used.

April 25, 2023
vk

(Vivek Puri)
Judge

Whether reasonable / speaking :	Yes
Whether reportable :	Yes