

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP No.1983 of 2023
Date of decision: 12th April, 2023

Resham Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Ms. Satinder Kaur, Advocate for the petitioner.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondents/State.

MANJARI NEHRU KAUL, J.

The petitioner is seeking issuance of directions to respondents No.3 and 5 to grant parole for 8 weeks to him so as to nurse his ailing mother, who is stated to be suffering from cancer, and also to spend some quality time with his family, as subsequent to his conviction on 17.07.2018 in FIR No.44 dated 19.04.2013 under Sections 22/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sections 420, 467, 468, 471 IPC registered at Police Station Kot Ise Khan, District Moga, he has never been released on parole.

Learned counsel contends that the petitioner has undergone more than 4 years of sentence after his conviction on 17.07.2018, which excludes his custody prior to his conviction in the case in hand.

It has been further submitted that ever since his conviction, the petitioner has been maintaining good conduct inside the prison. Learned counsel has still further submitted that no doubt, there were eight other cases registered against him, however, it was a matter of record that the petitioner had been acquitted in five of those cases and had completed his sentence in two cases and stood convicted in only one case, for which he was undergoing imprisonment.

Learned counsel submits that under Section 3(1)(a) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, the statute clearly defines that the State Government may, in consultation with the District Magistrate and subject to such conditions and in such a manner as may be prescribed, release temporarily for a period specified in sub-section any prisoner if the State Government is satisfied that a member of the prisoner's family had died or is seriously ill.

Furthermore, it has been submitted that the petitioner has not been involved in any other criminal case after the year 2015. Learned counsel submits that there is no apprehension of the petitioner indulging in any criminal activity, which fact is supported by a resolution passed by the Gram Panchayat (Annexure P-3) dated 14.02.2023, wherein a no objection to the petitioner being released on parole has also been given. In support of her submissions, learned counsel has placed reliance upon the judgment of this Court rendered in

‘Varun @ Gullu vs. State of Haryana & others’ CRM-M No.34013

of 2019 d/d 09.04.2010 and ‘Mohammad Shehbaz vs. State of Punjab & others’ CRWP No.3196 of 2022 d/d 05.07.2022.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, submits that given the criminal antecedents, in case the petitioner is released on parole, there could be a likelihood of he indulging in similar criminal activities and committing breach of peace and that was one of the reasons why his application for parole was rejected by the District Magistrate concerned. Learned State counsel has however, not been able to controvert that the mother of the petitioner is suffering from advance stage of cancer and still further, the petitioner stands acquitted in five of the criminal cases which were registered against him and has already served out his sentence in the remaining two criminal cases, in which he was convicted.

I have heard learned counsel for the parties and perused the relevant material on record.

A Division Bench of this Court in **‘Jugraj Singh @ Bhola vs. State of Punjab, 2010(25) RCR (Crl.) 138**, has held as under:

"It is also conceded position that the petitioner can be temporarily released on parole for four weeks under Clause (d) of sub-section (1) of Section 3 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (hereinafter referred to as 'the Act') to enable him to meet his family members. In our opinion, the release of a convict on parole is a wing of reformatory process. Section 3 of the Act has been enacted as a reformatory measure with an

object to enable the prisoner to have family association or to perform certain family obligations and rituals. Until and unless sufficient material is available with the authorities giving solid reasons for declining the temporary release of a convict on parole, this benefit should not be declined to him. In the instant case, no such strong material or basis has been relied upon by the respondents while rejecting the prayer of the petitioner for releasing him on parole for four weeks to meet his family members.”

Hon'ble the Supreme Court in '**Babu Singh vs. State of UP**', 1978 (1) SCC 579 has also observed that “*unremitting insulation in the harsh and hardened company of prisoners leads to many unmentionable vices that humanizing interludes of parole are part of the compassionate constitutionalism of our system*”.

In the case in hand, the petitioner has been in custody for almost 6 years and 5 months. It is a matter of record that the petitioner has not been released on parole ever since his conviction. It has also not been disputed by the learned State counsel that the petitioner has maintained good conduct inside the prison. Further, the Panchayatnama (Annexure P-3) dated 14.02.2023 also reveals that there is no apprehension of any breach of peace or the petitioner being involved in any illegal activities during the parole period.

In the circumstances, this Court does not deem it appropriate to deprive the petitioner of the company of his family members and to meet his ailing mother. It needs to be reiterated that a prisoner does not stop being a human being merely because he has been

convicted for an offence. The prisoner/convict cannot be deprived of the company of his loved ones.

Accordingly, the present petition is allowed. The petitioner is ordered to be released on parole for a period of 8 weeks from the date of his release on his furnishing requisite personal and surety bonds to the satisfaction of the District Magistrate concerned, and the District Magistrate may impose such conditions as may be considered necessary to secure the presence of the petitioner back in jail after the parole period is over and also to ensure that the temporary release is not misused, by securing a bond of mandatory good conduct with a clear stipulation that in case the petitioner commits any offence during his period of temporary release, his release warrants would be cancelled as provided in Rule 4 of the Punjab Good Conduct Prisoners’ (Temporary Release) Rules, 1963.

(MANJARI NEHRU KAUL)
JUDGE

April 12, 2023
rps

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