

IN THE HIGH COURT OF PUNJAB AND HARYANAAT
CHANDIGARH

287

CRWP-3213-2023 (O&M)
Date of Decision: 13.07.2023

KAMALJIT SINGH

... Petitioner

Versus

STATE OF PUNJAB AND ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. JS Bains, Advocate
for the petitioner.

Mr. Hakam Singh, AAG, Punjab.

HARNARESH SINGH GILL, J.(Oral)

CRM-W-965-2023

This is an application for placing on record the medical investigation reports of petitioner's mother, namely, Jasvir Kaur, as Annexures P-2 and P-3.

With no objection from the learned State counsel, the present application is allowed. Annexures P-2 and P-3 are taken on record, subject to all just exceptions.

Registry is directed to tag the same at an appropriate place.

CRWP-3213-2023

Through this petition, the petitioner seeks grant of parole for a period of eight weeks, in order to meet and take care of his family members.

Learned counsel for the petitioner submits that the petitioner is undergoing life imprisonment in FIR No.167 dated 28.07.2013, under Sections 302, 323, 452, 148 and 149 IPC and Section 25 of the Arms Act,

at Police Station City Kapurthala, District Kapurthala; that the appeal preferred against the judgment and order of sentence dated 04.10.2021 passed by the learned Additional Sessions Judge, Kapurthala, is pending before this Court and that the case of the petitioner for parole was initiated by respondent No.2-Superintendent, Central Jail, Kapurthala, but the same was declined by respondent No.3-District Magistrate, Jalandhar, vide order dated 08.12.2022 on the ground that since the petitioner is involved in a serious crime, there is an apprehension of breach of peace and absconding of the petitioner, if he is released on parole. He further submits that the petitioner has been in custody for the last more than five years and during the said period, his conduct was good and that co-convicts of the petitioner, namely, Gurprit @ Gopi and Amarjit Singh @ Mama, have been granted the concession of parole (though Amarjit Singh @ Mama was found using mobile phone in the jail). Still further, it is submitted that parole is a rule whereas rejection is an exception. He, thus, prays for grant of parole to the petitioner for a period of eight weeks.

In support of his contentions, learned counsel for the petitioner relies upon the order dated 18.03.2004 passed by a Coordinate Bench of this Court in Subash vs State of Haryana and another, 2004 (2) RCR (Criminal) 491.

On the other hand, learned State counsel submits that the petitioner is a habitual offender, inasmuch as, there are many other cases registered and/or pending against him and that the petitioner is not maintaining good conduct in the jail and a mobile phone was recovered

from him on 06.11.2022. He relies upon letter dated 17.09.2002 issued by the Office of Additional Director General of Police (Prisons), Punjab, Chandigarh, which states that the convicts who have committed jail offence, their conduct in the jail cannot be considered satisfactory for one year from the date of the offence. Further reliance has been placed upon the Punjab Good Conduct Prisoner's (Temporary Release Act), 1962. He further submits that there are every likelihood of the petitioner absconding, if released on parole, as he is a resident of Village Bullowal, District Hoshiarpur and confined in the Central Jail, Kapurthala.

I have heard the learned counsel for the parties.

Respondent No.3-District Magistrate, Jalandhar, in his impugned order has specifically mentioned that the petitioner has applied for parole through his friend, namely, Jasvir Singh, resident of Village Bal Kohna, Tehsil Nakodar, District Jalandhar and though the petitioner is a permanent resident of Village Jandu, Police Station Bulowal, District Hoshiarpur, yet the fact remains that none of his family members, are residing at Village Bal Kohna, Tehsil Nakodar, District Jalandhar. It has further been observed that the petitioner may abscond or commit serious crime, if released on parole.

Co-convict, namely, Amarjit Singh @ Mama has been granted the concession of parole vide order dated 23.01.2023 passed by the Hon'ble Division Bench of this Court.

Section 3(1)(aa) of the Punjab Good Conduct Prisoner's (Temporary Release), Act, 1962 provides for temporary release of the prisoner on parole on the grounds as mentioned therein.

The petitioner herein wants to meet and take care of his family members and he has never been released on parole earlier. The concession of parole to a convict is regulated by the statute and the authorities thereunder cannot act arbitrarily and capriciously. Rejection of the application seeking parole by a convict should be through a well reasoned and speaking order.

As noticed above, the two co-convicts have already been granted the concession of parole though one of them was found using mobile phone in the jail.

In view of the above, the impugned order dated 08.12.2022 passed by respondent No.3 is set aside. The petitioner is ordered to be released on parole for a period of six weeks from the date of his release on furnishing bail bonds along with two surety bonds to the satisfaction of the learned District Magistrate concerned.

District Magistrate concerned would be at liberty to impose any other condition, as may be necessary, to secure the presence of the petitioner in jail after the parole is over and to ensure that the said period is not misused.

The petitioner shall surrender back before the authorities concerned immediately after the expiry of parole period.

Disposed of in the above terms.

13.07.2023

Aman Jain

(HARNARESH SINGH GILL)
JUDGE

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