

CRWP-3152-2023
2023:PHHC:083860-DB

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRWP-3152-2023
Date of Decision : **July 04, 2023**

HARVINDER SINGH ALIAS GOGGI

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Arjunveer Sharma, Advocate
for the petitioner.

Mr. Navdeep Chhabra, Sr. DAG, Punjab.

KULDEEP TIWARI. J.(Oral)

The present petition has been filed under Article 226 of the Constitution of India read with Section 482 Cr.P.C. for the grant of parole for 8 weeks under Section 3(1)(d) of the Punjab Good Conduct Prisoners Temporary Release Act, 1962.

The petitioner has been convicted by the learned trial Court vide order dated 15.1.2021 and has been sentenced to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.1,00,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one year under Sections 18 and 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The petitioner has preferred a statutory Criminal Appeal No. CRA-D-212-DB-2021 against the judgment of conviction and order of sentence dated 15.1.2021

which is pending for adjudication. The petitioner had applied for temporary parole for a period of 8 weeks. However, the Deputy Commissioner-cum-District Magistrate, Ludhiana vide its order dated 23.2.2023 has declined the parole. The petitioner has now challenged the aforesaid order declining his prayer for 8 weeks' parole.

Learned counsel for the petitioner submits that the impugned order has been passed in most perfunctory manner. No reason whatsoever has been assigned to decline the parole.

Upon notice, the learned State counsel has filed short reply by way of affidavit of Shivraj Singh Nangarh, PPS, Superintendent, Central Jail, Ludhiana. As per the reply filed by the State, the petitioner is involved in 6 more cases, out of which, he has been acquitted in 1 case and 5 cases are pending against him. The details of such cases are given hereinunder:-

Sr. No.	FIR No./Date	Under Section	Police Station	Remarks
1	131/2016	22/29/61/85 of NDPS Act	Haibowal, Ludhiana	The petitioner is confined on production warrant in this case.
2	217/2017	25 of Arms Act	Sadar Ludhiana	The petitioner is on bail in this case.
3	118/2016	323/325/506/34 IPC	Haibowal, Ludhiana	The petitioner is on bail in this case.
4	205/2019	52-A(1) of Prisons Act	Division No.7, Ludhiana.	The petitioner is on bail in this case.
5	29/2021	18A/61/85 of NDPS Act	Division No.7, Ludhiana	The petitioner is on bail in this case.

The learned State counsel while opposing the grant of parole submits that in case the petitioner is granted parole, he might get involved in drug smuggling and might abscond from justice.

Learned counsel for the petitioner has placed on record the judgment dated 7.7.2018 passed by the learned trial Court in FIR No. 41 dated 10.5.2015 under Sections 15/61/85 of NDPS Act, Police Station Haibowal, Ludhiana whereby the petitioner has been acquitted of the charges framed against him. He has also placed on record the orders showing that the petitioner is on bail in all other pending cases.

We have perused the entire record.

A reading of the declining order (Annexure P-1) reveals, that the only reason for declining the parole is that there is an apprehension of the petitioner misusing the concession of parole and absconding from justice. Pendency of other cases and apprehending indulgence of the petitioner in trade of intoxicants, if released on parole, are also one of the reasons for declining parole. However, the above apprehension is not founded upon any credible and tangible evidence. Therefore, since in the wake of the above, the declining order (supra) is obviously made with a complete lack of application of mind, and/or is surmisely drawn, therefore, the same is required to be rejected.

Therefore, the petition is allowed and the impugned order dated 23.2.2023 passed by the Deputy Commissioner-cum-District Magistrate, Ludhiana is set-aside. The petitioner is ordered to be released on parole for eight weeks w.e.f. 10.7.2023 to 3.9.2023, but subject to his

furnishing personal and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate with an undertaking that immediately on expiry of the afore period, he shall re-step into the prison concerned.

If the above condition is breached and the petitioner does not re-step into the prison concerned, immediately on the expiry of eight weeks, thereupon, liberty is reserved to the jurisdictional SHO concerned, to forthwith arrest the petitioner and to thereafter produce the petitioner before the jurisdictional Magistrate concerned, for the latter making an order for the petitioner becoming committed to the jail concerned.

(RITU BAHRI)
JUDGE

July 04, 2023
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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No