

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-4082-2022 (O&M)

Date of decision: April 24, 2023

MANDEEP SINGH

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH

Present: Dr. Bandana Trikha Sachdev, Advocate
for the petitioner.

Mr. Gurpreet Singh Shergill, AAG, Punjab.

Mr. Deepak Gupta, Advocate
for the complainant.

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GURBIR SINGH, J. (ORAL)

Prayer in this petition is for quashing of the impugned order dated 30.10.2020 (Annexure P-1) whereby the prayer of the petitioner is for grant of 8 weeks parole was rejected.

The counsel for the petitioner has submitted that the District Magistrate did not recommend parole to the petitioner on the ground that if he is released on parole, he may be a threat to the life of the complainant and may also commit an offence during parole. The petitioner is not punished for a major jail offence for the last five years. He is also eligible for parole as per sub-section (2) of Section 5-A of the Punjab Parole Amendment Act, 2015. The petitioner has earlier availed an emergency parole without causing any breach of peace. The complainant is already provided 24 hours security.

The apprehension of jumping of parole/committing crime during parole can be checked by raising the amount of surety and security so that convict is assured of his return to jail before his release from the prison. It is always open to the authorities to impose stringent conditions to guard against such convict from jumping the parole. The parole can only be refused, if there is a danger to state and public peace under Section 6 of the Act. He has relied on the cases of **Rajesh alias Pappu Vs. State of Haryana; Joginder Singh and State of Punjab and Another; Dr. Ram Manohar Lohia Vs. State of Bihar and Others; Karan Singh Vs. State of Haryana and Others; Charnjit Singh @ Channa Vs. State of Punjab and Others; Ram Chander Vs. State of Punjab and Others.**

Learned State counsel has opposed the application. It is submitted that the petitioner was released on 6 weeks parole on 30.05.2011 from Central Jail, Ferozepur as per provision of Punjab State Prisoners Good conduct (Temporary Release) Act, 1962. He was directed to surrender in jail on 12.07.2011 but he did not surrender back in the jail on the due date and he remained absconded for a period of 464 days.. He was arrested on 04.10.2012 in another case and was admitted in Sub Jail, Sri Muktsar Sahib on 05.10.2012. A complaint was filed against said violation before the Ld. Chief Judicial Magistrate, Ferozepur, petitioner was convicted and sentenced to pay a fine of Rs.10,000/- in default of payment of fine to further undergo RI for a period of 3 months. The petitioner is already convicted in the following cases:-

- (1) FIR No.130 dated 04.10.2012 under Section 353, 332, 186 IPC PS Sadar Ludhiana convicted and sentenced to undergo already undergone by the Ld. Court of JMJC Ludhiana on 29.10.2013.

(2) Complaint No.169-2 dated 16.03.2013 U/s 9 The Punjab State Prisoners Good Conduct (Temporary Release) Act, 1962 convicted to pay a fine of Rs.10,000/- in default of payment of fine to undergo RI for 3 months by the Court of Mrs. Ravinder Kaur Ld. Chief Judicial Magistrate Ferozepur on 19.12.2014.

(3) FIR No. 287 dated 09.12.2007 under Section 61 of Punjab Excise Act PS City, Muktsar Sahib convicted and sentenced to undergo RI for one year and to pay a fine of Rs. 10,000/- on 29.09.2015 by the Court of Sh. Mahesh Kumar, Judicial Magistrate Ist Class, Sri Muktsar Sahib.

(4) FIR No. 19 dated 06.02.2013 U/s 420, 467, 468, 471, 120-B IPC PS City, Muktsar Sahib convicted and sentenced to undergo RI for three years and to pay a fine of Rs. 40,000/- on 12.06.2019 by the Court of Sh. Atul Kamboj, Chief Judicial Magistrate, Sri Muktsar Sahib.

The details of the pending cases against petitioner are as under:-

(1) FIR No. 134 dated 22.06.2012 U/s 302, 303, 212, 213, 216, 201, 174-A, 380, 403, 420, 424, 467, 120-B of IPC, PS City Sri Muktsar Sahib. Trial is pending in the Ld. Court of Additional Sessions Judge, Sri Muktsar Sahib. The petitioner is on bail in this case.

(2) FIR No. 40 dated 14.02.2013 U/s 419, 420, 465, 467, 468, 471, 120-B of IPC and 66, 66-C, 66-D I.T Act 2000 PS City Sri Muktsar Sahib. Trial is pending in the Ld. Court of CJM, Sri Muktsar Sahib. The petitioner is on bail in this case.

(3) FIR No. 19 dated 14.02.2015 U/s 420, 465, 467 of IPC, PS City Sri Muktsar Sahib. Trial is pending in the Ld. Court of CJM, Sri Muktsar Sahib. The petitioner is on bail in this case.

(4) FIR No. 279 dated 25.11.2022 U/s 420, 467, 468, 471, 120-B of IPC, PS Baddi, District Solan (H.P). Trial is pending in the Ld. Court of Sh. Jatinder Kumar Ld. JMIC, Nalagarh, District Solan (H.P). The petitioner is on bail in this case.

(5) FIR No. 243 dated 17.12.2012 U/s 420, 467, 468, 471, 120-B of IPC, PS North Chandigarh. Trial is pending in the Ld. Court of Sh. Harleen Pal Singh, Ld. JMIC, Chandigarh, District Solan (H.P). The petitioner is also on bail in this case.

His case was refused inter alia on the ground that on the basis of the report of the Superintendent of Police, Sri Ganganagar, that he might threaten the life of the complainant if he is released on parole and he might also commit a serious offence since, he had already absconded from the parole.

The learned State Counsel has relied upon the judgment rendered in the case of ***Satbir Vs. State of Haryana Law Finder Doc Id - 731273, CRWP No. 440 of 2014*** decided on 28.11.2015 and prayed for dismissal of the petition.

Heard.

The petitioner was convicted in case FIR No.16 dated 01.02.2006 U/s 302/120-B of IPC, PS City Muktsar. The petitioner was released on 6 weeks parole on 30.05.2011 and he was to surrender back in the jail on 12.07.2011 but he did not surrender. He was arrested in some other case and was admitted in the jail on 05.10.2012 to undergo sentence. So, he remained absconded from the parole for a period of 464 days. The complaint was filed before learned CJM, Ferozepur and he was convicted under Section

9 of the Punjab State Prisoners Good Conduct (Temporary Release) Act, 1962.

Learned State counsel has relied upon the judgment rendered in the case of ***Vakil Raj Vs. State of Haryana (supra)***. It is held by Hon'ble Division Bench of this Court, the parole is not a right but it is a concession which is extended on good conduct. The convict, who does not maintain jail discipline is not entitled to parole as one of the conditions of grant of parole is good behaviour in custody. In the said case, the convict was found in possession of the mobile phone. The case falls under Haryana Good Conduct Prisoners (Temporary Release) Act, 1988. In the said Act, hardcore prisoner means different category of convicts, but the case in hand falls under the Punjab Good Prisoners (Temporary Release) Act, 1962.

It is settled principle that release on parole is part of the reformatory process. The Division Bench in ***Arun Kumar Vs. State of U.T., Chandigarh and others, 2011 (2) AICLR 361*** held that release of convict on parole is a wing of reformatory process. The provisions of the Act have 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. Sufficient material should be available and there should be solid reasons for declining temporary release on parole.

Similarly, in ***Ram Chander vs. State of Punjab and others, 2017 (3) RCR (Crl.) 340***, it was held that in the absence of any material before the District Magistrate, denial of benefit of parole as such would not be justified which was being prayed for, for meeting the family members.

Keeping in view, the petitioner is in custody since 05.10.2012. He has

not committed any major jail offence within last 5 years. He has not been able to meet his family. It is duty of the State to secure the complainant and protect the life and liberty of complainant.

Thus, the present petition is allowed.

Impugned order dated 30.10.2020 (Annexure P1) is hereby quashed. Petitioner shall be released on parole for a period of 4 weeks on furnishing requisite bail/surety bonds to the satisfaction of the competent authority and he shall surrender back well within time in jail premises.

(GURBIR SINGH)
JUDGE

April 24, 2023
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No