

2023:PHHC:052642

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRWP-4513-2021 (O&M)
Date of Decision:-17.4.2023

Anil Jain

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Ms. Poonam Singh Thakur, Advocate and
Mr. Adarsh Priyadarshi, Advocate for the petitioner.

Mr. Siddharth Atttri, AAG, Punjab.

Mr. P.P.S. Thethi, Advocate for the complainant.

GURVINDER SINGH GILL, J. (Oral)

CRM-W-89-2022

In view of the reasons mentioned in the application, the same is allowed and written submissions as well as Annexures C-1 to C-3 annexed with the application are taken on record subject to all just exceptions.

CRWP-4513-2021 (Main Case)

1. The petitioner assails order dated 14.8.2020 (Annexure P-1) passed by Commissioner of Police, Ludhiana vide which an application moved on behalf of the petitioner seeking his release on parole for 8 weeks has been declined.

2. Learned counsel for the petitioner submits that the impugned order does not fully disclose the reasons as regards the apprehension of State to the effect that the petitioner in case released on bail is likely to hamper peace and harmony. Learned counsel for the petitioner has further submitted that the petitioner has been behind bars since the last about 16 year and, as such, deserves to be released on parole so as to meet his family, which includes a wife aged about 57 years, son aged about 34 years, daughter-in-law and two married daughters.
3. Opposing the petition, learned State counsel assisted by learned counsel for the complainant has submitted that the petitioner has a chequered record and stands involved in 3 other cases, the details of which are mentioned in para No.4 of reply dated 27.4.2022, which read as under:

Sr. No.	Case Detail	Status
1.	FIR No.33, dated 17.3.2019, under Section 188 IPC and 52 of Prison Act and 22/61/85 of NDPS Act, P.S. Cant, Bathinda	On Bail
2.	FIR No.140, dated 12.8.2004, under Sections 448, 380, 323, 506, 148, 149 IPC, Police Station Focal Point, Ludhiana	On Bail
3.	FIR No.151, dated 5.4.2007, under Sections 307, 148, 149, 120-B of IPC and Section 25 of Arms Act, Police Station Ladowal, Ludhiana	On Bail
4.	Complaint case under Section 307 IPC and Section 25 of Arms Act.	Acquitted on 1.3.2018

4. Learned State counsel has submitted that given the chequered antecedents of the petitioner, there is every apprehension that the petitioner, in case released on parole, is likely to indulge in similar activities of disturbance of peace and harmony again.

5. Learned counsel representing the complainant has submitted that the petitioner had murdered his real brother and real brother's wife and is a desperate kind of person and does not deserves to be released on parole. Learned counsel for the complainant has today furnished an affidavit of Mrs. Sangeeta Jain, divorced wife of the petitioner, wherein she has categorically deposed that neither she nor her children had ever visited the petitioner in jail and they do not wish to meet him now or in future. The aforesaid affidavit is taken on record. The aforesaid deposition is in sharp contrast with the averments made in the petition, wherein the petitioner asserts that he wishes to meet his wife and to renew his familial ties. Once the marriage between the petitioner and his wife had been dissolved, there would hardly be any question of maintaining familial ties.
6. In any case, the reasons furnished in the petition for grant of parole i.e. to maintain familial ties have not found favour with this Court in view of judgment of this Court in CRWP-7882-2022 decided on 27.2.2023 titled Deepak Kumar Versus State of Punjab and others. The relevant extract from said judgment are reproduced herein-under:

“27. Having regard to the distinction between ‘parole’ & ‘furlough’, as highlighted in judgment of Hon’ble Supreme Court in Narayan’s case (supra), the ground (vi) mentioned in Para 13 in Asfaq’s case (supra) i.e. ‘to maintain family and social ties’ cannot be read into Section 3 of the Punjab Good Conduct Prisoners (Temporary) Release Act, 1962 in Punjab, particularly when such ground is conspicuously missing in Section 3 of the Act. Infact, there are provisions under Section 4 of the Act for release on ‘furlough’, which are not there in some States. Furlough, as specifically interpreted by various Supreme Court judgements discussed above, is granted to achieve this very object of maintaining alive familial ties.

28. In these circumstances, when the desired object of ‘*maintaining familial ties*’ is already being achieved by grant of ‘furlough’, it would rather be a mockery of Courts if the convict is released twice over for the same purpose of ‘*maintaining familial ties*’ under two different provisions and would render the concept of punishment rather *otiose*.
29. For the reasons already discussed above, it goes without saying that the scope of Rule 3(1)(d) of the Act i.e. “*it is desirable to do so for any other sufficient cause*”, cannot be stretched so as to include the ground of meeting family simplicitor, though, of course a convict may be able to invoke the said ground in case he is able to prove existence of any emergent situation not otherwise specified in the remaining grounds of Section 3 of the Act.
30. As a sequel to the discussion made above, both the questions as framed above are answered in negative. It is held that under the Punjab Good Conduct Prisoners (Temporary) Release Act, 1962, a convict is not entitled to be released on parole solely and simply on the ground of meeting members of his family and has to bring out a case within the scope of the grounds specified in Section 3 of the Act to stake his claim for grant of parole. It is further held that ground under Rule 3(1)(d) of the Act i.e. “*it is desirable to do so for any other sufficient cause*”, cannot be invoked for a casual meeting with members of family, though a convict may be able to justify his release on account of existence of some emergent situation requiring his presence with family, despite the fact that such specific emergent situation otherwise is not specified in Section 3 of the Act.”
7. In view of the aforesaid discussion, this Court does not find any ground for setting aside the impugned order dated 14.8.2020 (Annexure P-1) passed by Commissioner of Police, Ludhiana. The petition is sans merit and is hereby dismissed.

17.4.2023

pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No