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

CRWP-4640-2023

Date of decision:12.05.2023

PAPPU

...Petitioner

Versus

UNION TERRITORY CHANDIGARH AND ORS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present: Mr. Ruhani Chadha, Advocate
for the petitioner.

Mr. Rajeev Anand, APP, U.T. Chandigarh

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner became convicted through a verdict drawn on 19.10.2022, by the learned Special Court, Chandigarh. The said conviction was recorded for a charge drawn against him for an offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act. Through a separate order of sentence, as became made, on 20.10.2022 by the learned Special Court, Chandigarh, the convict was sentenced to undergo rigorous imprisonment for a term extending upto 15 years, and, was also imposed the sentence of fine, comprised in a sum of Rs.1,50,000/-, and, in default of payment of fine, he was sentenced to further undergo rigorous imprisonment for a term extending upto 3 years.

2. The above verdict of conviction, and, the consequent therewith sentence of imprisonment, has been assailed by the convict, through his instituting appeal No.CRA-D-1201-2022, before this Court.

3. However, during the pendency of the said appeal, before this Court, the convict applicant moved an application claiming therein, the according to him, of the facility of parole, thus for the reasons mentioned in the said relevant application. However, on the said application, a declining order, as enclosed in Annexure P-1 rather became passed. The reason as spelt therein, is that, the petitioner in the event of his being granted the facility of bail, thus creating a likelihood of his re-committing an offence, in respect whereof, he became convicted, and, also became sentenced. Moreover, the further reason as spelt therein, is that, thereby there being likelihood of the petitioner creating a menace to the society.

4. The above grounds are merely based on an apprehension. Even if during the period of parole, the petitioner indulges in committing offences similar to the one, in respect whereof he became convicted, and, also became sentenced, thereby not only he would be forbidden to re-apply for parole, but also thereby an FIR, would become registered against him, thus leading to his arrest. Obviously thereby the above apprehension would become completely mitigated.

5. The consequence of the above, is that, the declining order when as such is based on a mere apprehension, and, also when the said apprehension, can become mitigated. Resultantly there could not have been a denial of facility, of parole, through the makings of the declining order, as has been challenged before this Court.

6. In consequence, the impugned order of 28.04.2023 (Annexure P-1) is quashed, and, set aside, and, the applicant is directed to be forthwith released

on parole for 4 weeks, from the prison concerned, where he is instantly lodged, but subject to his furnishing personal, and, surety bonds in a sum of Rs.1 lac each to the satisfaction of the Superintendent of the Jail concerned. He is directed to ensure that on the expiry of 4 weeks from the date of his coming out of prison, he shall re-step into the prison concerned. However, if he does not do so, the SHO of the jurisdictional area concerned, is reserved liberty to arrest the accused concerned, and, to thereafter produce him before the learned Magistrate concerned, who shall thereafter make an order for his being committed to judicial custody.

(SURESHWAR THAKUR)
JUDGE

12.05.2023

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(KULDEEP TIWARI)
JUDGE

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