

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

CRWP-5288-2023

Date of Decision:22.09.2023

Vikas Garg

...Petitioner

Vs.

State of U.T Chandigarh and Others

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Hoshiar Singh Jaswal, Advocate
 for the petitioner.

Mr. Anil Kumar Addl.P.P for U.T Chandigarh.

N.S.Shekhawat J.

1. The petitioner has filed the present petition under Article 226 of the Constitution of India with a prayer to quash the impugned order dated 09.05.2023 (Annexure P-1), passed by the respondent No.1, whereby the prayer of the petitioner for grant of parole was rejected and a further prayer has been made to release the petitioner on parole for a period of four weeks to meet his family members.

2. Learned counsel for the petitioner contends that the petitioner was falsely involved in a case arising out of FIR No.352 dated 10.10.2017 under Section 22 of the NDPS Act, registered at Police Station Sector 36, UT Chandigarh. Ultimately, the petitioner was convicted under Section 22 of the NDPS Act and was sentenced to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.1,00,000/- by the Special Court, Chandigarh.

3. The petitioner had filed an appeal before this Court, which has been admitted for regular hearing and is now stated to be pending. Learned counsel contends that petitioner is entitled to be considered and released on parole under Section 3 of the Punjab Good Conduct Prisoner's (Temporary Release) Act, 1962 (as amended by the Amendment Act, 2018). Learned counsel contends that as per the amended provisions of the Act, the petitioner can avail parole of 112 days (16 weeks)

in a calendar year i.e for a period of four weeks in each quarter and eight weeks twice on medical grounds in a year. Learned counsel further submits that the petitioner remained in jail during trial and even after conviction, he was granted interim bail thrice, however, he never misused the same and always surrendered in jail well in time, without any complaint. Even on 10.10.2022, the petitioner approached the respondent No.2 and applied for grant of parole for a period of 28 days, which was forwarded to District Magistrate for conducting an enquiry in the present case. Even during the enquiry conducted by respondent No.3, local police had not objected to the release of the petitioner. However, the case of the petitioner for grant of parole was rejected by respondent No.1 vide the order dated 09.05.2023 (Annexure P-1). The only ground for rejection of prayer of the petitioner taken by respondent No.1 was that his release was likely to endanger the security of the State Government or the maintenance of the public order. Learned counsel further contends that earlier also, when the petitioner availed the concession of interim bail, he never misused the said concession and surrendered on time.

4. A short reply by way of an affidavit of Additional Superintendent, Model Jail, Chandigarh has been filed in the Court and the same was taken on record.

5. From the reply submitted by the respondents, it is apparent that there is no serious opposition to the claim set up by the present petitioner. Rather in the communication dated 02.05.2023 (Annexure R-1) submitted by the respondents, it is apparent that during the earlier parole stay, no criminal activity on the part of the present petitioner was reported. Even there was no mention of misuse of any such concession by the present petitioner.

6. I have heard the learned counsel for the parties and perused the record.

7. The only ground for rejection of the claim of the petitioner is that his release was likely to endanger the security of the State Government or the maintenance of the public order. However, for recording such finding, no reasons

have been mentioned by respondent No.1. Apart from that, it is evident from Annexure R-1 that during the previous parole stay, no criminal activity was reported on the part of the petitioner/convict. Thus, it seems that the said ground has been taken, just to get the parole application of the petitioner rejected. Apart from that, it is the duty of the State Government to maintain the public order and the security of the citizens. Consequently, the case of the petitioner could not have been rejected on the said ground.

8. Thus, it is apparent that the order Annexure P-1 is illegal and is liable to be quashed.

9. Taking all these circumstances into consideration, the petition is hereby allowed and the impugned order dated 09.05.2023 (Annexure P-1) is set aside. The petitioner is ordered to be released on parole for a period of four weeks, subject to his furnishing personal/surety bonds to the satisfaction of the concerned District Magistrate.

10. The concerned District Magistrate, may impose such conditions, as may be necessary to secure the presence of the petitioner in jail, after the parole is over and to ensure that the temporary release is not misused.

22.09.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No