

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

247

CRWP-5580-2023

Date of decision: 19.10.2023

Raj Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rajdeep Singh Gill, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant petition has been filed under Article 226 of the Constitution of India, for issuance of a writ in the nature of certiorari for setting aside order dated 27.07.2023 whereby the petitioner was denied the benefit of parole to meet her family and relatives and for agriculture purposes. The petitioner has made a prayer that she be granted the benefit of parole under Sections 3 & 4 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short, 'the Act') for a period of 08 weeks to meet his family.

2. On being put to notice by this Court on 02.06.2023, learned State counsel filed reply by way of affidavit of Rajiv Kumar Arora, PPS, Superintendent, Central Jail, Faridkot on behalf of respondents No.2 and 4.

3. Learned State counsel has drawn the attention of this Court

to the aforementioned reply filed on behalf of respondents No.2 and 4 and submitted that the petitioner is undergoing sentence in case FIR No.102 dated 06.09.2015 under Section 22 of the NDPS Act registered at Police Station Kot Ise Khan. Besides this, she is also facing trial in another case i.e. FIR No.79 dated 20.10.2019 under Section 22 of the NDPS Act registered at Police Station Hathur. Learned State counsel has opposed the prayer made by the petitioner by submitting that there could be a possibility of the petitioner jumping parole and again indulging in smuggling of intoxicant substances.

4. Learned counsel appearing for the petitioner, on the other hand, has vehemently contended that the petitioner, who is serving her sentence ever since her conviction on 24.08.2022, has been maintaining good conduct and has not been involved in any untoward incident inside jail. It has been further submitted that no doubt the petitioner is facing trial in another case, however, that cannot be a ground to deprive her of her statutory right to parole. Learned counsel has prayed that the petitioner be put to any stringent conditions while extending the benefit of parole.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. Hon'ble the Supreme Court in ***Asfaq vs. State of Rajasthan and others, 2018 (1) SCC (Cri.) 390*** while dealing with the question regarding parole and furlough to prisoners observed as under:

“From the aforesaid discussion, it follows that amongst the various grounds on which parole can be granted, the most important ground, which stands out, is that a prisoner should be allowed to maintain family and social ties. For this purpose, he has to come out for some

time so that he is able to maintain his family and social contact. This reason finds justification in one of the objectives behind sentence and punishment, namely, reformation of the convict. The theory of criminology, which is largely accepted, underlines that the main objectives which a State intends to achieve by punishing the culprit are: deterrence, prevention, retribution and reformation. When we recognise reformation as one of the objectives, it provides justification for letting of even the life convicts for short periods, on parole, in order to afford opportunities to such convicts not only to solve their personal and family problems but also to maintain their links with the society. Another objective which this theory underlines is that even such convicts have right to breathe fresh air, at least for periods. These gestures on the part of the State, along with other measures, go a long way for redemption and rehabilitation of such prisoners. They are ultimately aimed for the good of the society and, therefore, are in public interest.

The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. Main purpose of such provisions is to afford to them an opportunity to solve their personal and family problems and to enable them to maintain their links with society. Even citizens of this country have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, without employment prospects, without a fundamental knowledge of the communities to which they will return, and without resources, stand a significantly higher chance of failure. When offenders revert to criminal activity upon release, they frequently do so because they lack hope of merging into society as accepted citizens. Furloughs or parole can help prepare offenders for success.”

7. Thus, what flows from the above observations of Hon'ble the Supreme Court is that a prisoner does not stop being a human being, merely because he stands convicted for an offence, hence, he cannot be deprived of the company of his loved ones. A compassionate approach towards convicts in jails needs to be adopted. The primary object for releasing the convicts on parole/furlough is to grant them a chance to address their personal and familial issues, as well as to facilitate their

continued connection with their family and society.

8. Accordingly, the petitioner is granted parole for a period of 06 weeks from the date of release to the satisfaction of the District Magistrate concerned. Since the petitioner is involved in another case, the District Magistrate would impose any such stringent condition which may be required to secure the presence of the petitioner in the jail after the parole period is over.

9. The instant petition stands allowed accordingly.

19.10.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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