

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

**CRWP No.7330 of 2022 (O&M)
Date of decision : April 12, 2023**

Irfan

... Petitioner

Versus

State of UT Chandigarh and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

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

Mr. Abhishek Arora, Advocate for
Mr. Sumit Jain, Additional Public Prosecutor, UT Chd.

HARINDER SINGH SIDHU, J.

This is a petition for grant of parole.

It is stated in the petition that the petitioner was tried, convicted and sentenced by the Ld. Additional Sessions Judge, Chandigarh to undergo Rigorous Imprisonment for 30 years under Section 376-D IPC and 2 years under Section 506 IPC vide judgment and order dated 27/31.08.2018, in case FIR No.411 dated 18.11.2017 Police Station Sector-36, Chandigarh. The appeal against conviction (CRA-877-DB-2018) of the petitioner is pending in the High Court.

The petitioner filed an application before the Authorities for his release on parole, which has been rejected vide the impugned order dated 22.05.2021 passed by Inspector General of Prisons, UT, Chandigarh.

Vide the impugned order, the IG (Prisons) on report from the District Magistrate, Ambedkar Nagar (UP), has rejected the request of petitioner for grant of parole with the following observations:

"... The said application of Irfan s/o Ramzan was forwarded to the District Magistrate, Ambedkar Nagar (UP) for sending report regarding desirability of release of convict Irfan on 28 days parole. The District

Magistrate, ambedkar nagar (UP) sent report vide letter No.263 dated 11.05.2021 and he did not recommend the parole of convict Irfan on the basis of the report of the Superintendent of Police, ambedkar nagar (UP).

The District Magistrate, Ambedkar Nagar (UP) has not recommended the parole of convict Irfan s/o Ramzan on the basis of the report of the Superintendent of Police, Ambedkar nagar (UP) who revealed in his report that convict can be absconded during his parole period and he has opposed the 28 days parole of convict Irfan s/o Ramzan.

The undersigned has gone through the provision of Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 which provides that 'Notwithstanding anything contained in Section 3 & 4, no prisoner shall be entitled to be released under this Act, if on the report of District Magistrate, the State Government or any officer authorised by it in this behalf is satisfied that, his release is likely to endanger the security of the State Government or the maintenance of public order.

Keeping in mind the report of District Magistrate, Ambedkar Nagar (UP) and provision of the aforesaid Act, the undersigned is of the view that convict Irfan s/o Ramzan is not entitled to be released on parole."

Mr.Hoshiar Singh Jaswal, Ld. counsel for the petitioner has contended that the request of the petitioner for parole has been wrongly rejected on the ground that in case of his release he may abscond.

Ld. counsel has argued that the report of the Superintendent of Police, Ambedkar Nagar (UP) is without any material and consequently, the impugned order passed considering the said report, is not justified. It is also contended that there is no material in the impugned order or any other report which would justify the assertion that there is apprehension of the petitioner absconding during parole period. He further submits that Temporary Release Acts envisage temporary release of convicts. Mere fact that a person is convicted for an offence does not mean that he will abscond if he is released on parole. As held by a Division Bench of this Court in **Baljit Singh Vs.**

State of Punjab 2017(2) Law Herald 1796 if the State has any apprehension that the convict will jump parole it can always impose adequate conditions including asking for heavy surety.

Ld. counsel further states that the petitioner has been behind bars since 24.11.2017 and it would be wholly illegal to deny him parole on the basis of unfounded apprehensions.

On a specific query regarding the place where the petitioner would stay during his parole, Ld. counsel has stated that he will stay at his village Mardanpur, P.S. Akharpur, District Ambedkar Nagar (UP).

Section 6 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short “the Act”), specifically provides that notwithstanding anything contained in Sections 3 and 4 no convicted prisoner shall be entitled to be released under this Act if, on the report of the District Magistrate, the State Government or an officer authorised by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order.

In the impugned order passed by the IG (Prisons), UT Chandigarh, there are no justifiable reasons given or material indicated to record a finding that the release of the petitioner is likely to endanger the security of the State or the maintenance of public order. The ground that there is a possibility of the petitioner absconding or involving in other serious crime while released on parole, appears to be just the apprehension in the mind of the Authority. There is no material to support that assertion. Hence, the impugned order cannot sustain.

As per Section 3(2-A) of the Act a convicted prisoner may be released on regular parole for sixteen weeks, during a calender year which shall be

availed of on quarterly basis.

Accordingly, the petition is allowed. The order dated 22.05.2021 (Annexure P-2) is quashed. Respondents are directed to release the petitioner on parole for a period of four weeks subject to his furnishing bond/ surety to the satisfaction of the District Magistrate/Competent Authority.

Immediately on his release on parole the petitioner shall proceed to the place where he would stay during the parole period i.e., village Mardanpur, P.S. Akharpur, District Ambedkar Nagar (UP). On reaching there, he will intimate that address to the SHO of the Police Station having jurisdiction over the area. He shall intimate the number of his Mobile Phone to the SHO and shall share his live location as and when asked for. The SHO of the area would be at liberty to call the petitioner on that mobile number to ascertain his location. He shall report in the local police station every week. The petitioner shall surrender before the Jail authorities on the expiry of the parole period.

(HARPREET SINGH BRAR)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

April 12, 2023

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No