

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

(1) **CRWP-7882-2022 (O&M)**

Deepak KumarPetitioner

Versus

State of Punjab and others ...Respondents

(2) **CRWP-11067-2022 (O&M)**

Tirath SinghPetitioner

Versus

State of Punjab and others ...Respondents

Date of Decision:- 27.2.2023

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Dr. Pankaj Nanhera, and Mr. Nagar Singh, Advocates
for the petitioner in CRWP-7882-2022.

Mr. Sandeep Sharma, Advocate for the petitioner
in CRWP-11067-2022.

Mr. Luvinder Sofat, DAG, Punjab and
Ms. Swati Batra, DAG, Punjab.

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GURVINDER SINGH GILL, J.

1. This order shall dispose off the above mentioned two petitions, which are based on identical facts and identical question of law is involved therein pertaining to temporary release of a convict on 'Parole' under provisions of

the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, (hereinafter referred to as '*the Act*').

2. Brief facts in CRWP-7882-2022 – Deepak Kumar :

The petitioner–Deepak Kumar stands convicted vide judgment dated 13.9.2021 (Annexure P-1) passed by Special Court, Ludhiana for having committed offence under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, arising out of FIR No. 126 dated 29.9.2016, Police Station Haibowal, District Ludhiana. He was sentenced to undergo rigorous imprisonment for 10 years and was also imposed fine amounting to Rs. 1 lac. The petitioner–Deepak Kumar challenged the said judgment by way of filing an appeal in this Court i.e. CRA-S-1142 of 2021, which is still pending. The petitioner-Deepak Kumar, who is in custody, moved an application seeking parole for six weeks so as to meet members of his family but his application was rejected vide order dated 29.6.2022 (Annexure P-3), while observing therein that in case the petitioner is released on bail there is likelihood that he would again indulge in activities pertaining to drug-trafficking and other anti-social activities and that there is apprehension of breach of peace, law and order. It is the said order dated 29.6.2022 (Annexure P-3) which has been challenged by the petitioner-Deepak Kumar.

3. Brief facts in CRWP-11067-2022 – Tirath Singh :

The petitioner–Tirath Singh was tried by the Special Court, Jalandhar for offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, in respect of FIR No. 28 dated 20.4.1992, Police Station Goraya, District Jalandhar and has been sentenced to undergo rigorous imprisonment

for 10 years and has been imposed fine of Rs. 1 lac. The petitioner-Tirath Singh had preferred an appeal in this Court challenging his conviction i.e. CRA-S-65-SB of 1996 but the same was dismissed vide judgment dated 27.9.2010. The petitioner-Tirath Singh applied for grant of parole for eight weeks so as to meet members of his family but the same was rejected by the authorities concerned vide impugned order dated 24.8.2022 (Annexure P-1) mainly on the ground that in case the petitioner is released on parole, there is likelihood that he would again indulge in sale of drugs and which would pose a threat to society. It is the said order dated 24.8.2022 (Annexure P-1), which has been challenged by petitioner-Tirath Singh.

4. The learned counsel for the petitioners have submitted that the impugned orders have been passed simply on the basis of assumption that there is likelihood of the petitioners indulging in commission of similar offences under NDPS again, in case they are released on parole whereas there is no such material to substantiate such apprehension.
5. It has further been submitted by learned counsel representing the petitioners that grant of parole serves a reformatory purpose inasmuch as it provides the convicts with an opportunity to remain in touch not only with members of his family but to remain a part of the society and be abreast with the development of the outside world and to keep alive an interest in life. It has been submitted that in case the convicts are not afforded with such like opportunities, it is verily likely that they would go in depression, which would not be in the interest of the society at large and would rather be a great loss to the family of such convicts. The learned counsel, in this regard, has referred to 'Model Prison Manual, 2016', approved by Ministry of Home

Affairs, Govt. Of India, which aims at furnishing guidelines to States for the purpose of bringing in basic uniformity in laws, rules and regulations governing the administration of prisons and the management of prisoners all over the country. Para 19.02 of the same reads as under:

“19.02 The objectives of releasing a prisoner on parole and furlough are:

- (i) To enable the inmate to maintain continuity with his family life and deal with familial and social matters,
- (ii) To save him from the evil effects of continuous long prison life,
- (iii) To enable him to maintain and develop his self-confidence,
- (iv) To enable him to develop constructive hope and active interest in life,
- (v) To help him remain in touch with the developments in the outside world,
- (vi) To help him remain physiologically and psychologically healthy,
- (vii) To enable him to overcome/recover from the stress and evil effects of incarceration, and
- (viii) To motivate him to maintain good prison and disciplines in the prison.”

6. The learned counsel have further cited CRWP-9403-2022 titled as Babbu Singh alias Tidda versus State of Punjab and others wherein a Co-ordinate Bench of this Court, while relying upon various other judgments of Co-ordinate Benches has ordered for grant of parole to a convict who had prayed for the same so as to meet members of his family. The learned counsel also rely upon a judgment of this Court passed in 2014 SCC Online P&H 21640 titled as Mohan Singh versus State of Punjab and others and a judgment of Hon'ble Division Bench of this Court in CRWP 1464 of 2021 titled as

Sukhraj Singh versus State of Punjab and another and also a judgment of Hon'ble Supreme Court reported in 2017(15) SCC 55 titled as Asfaq verus State of Rajasthan and others in order to hammer forth his aforesaid contentions.

7. On the other hand, the learned counsel representing the State has submitted that a convict can be released temporarily on parole only on specific grounds, as have been carved out in Section 3 of the Punjab Good Conduct (Prisoners Release) Act 1962, and since the ground - 'to meet members of family', does not find any mention in the same, the convict cannot be so released. It has further been submitted that despite there being provisions for grant of parole in Section 3 of the Act, a convict has no absolute right to be released on parole on the mere asking. The learned State counsel further submits that as a matter of fact Section 4 of the Act provides for grant of 'furlough', which is in addition to grant of parole on specific grounds. It has been submitted that maintaining familial ties is the very object sought to be achieved by granting furlough, as has been held so by various pronouncements of Hon'ble Supreme Court. The learned State counsel, in this regard, has pressed into service the following judgments of Hon'ble Supreme Court :

- (i) *2021(4) R.C.R.(Criminal) 524 titled as State of Gujarat and Another versus Narayan @ Narayan Sai @ Mota Bhagwan Asaram @ Asumal Harpalani; and*
- (ii) *2017(15) SCC 55 titled as Asfaq verus State of Rajasthan and others;*

8. This Court has considered rival submissions addressed before this Court. One of the purpose of imposing sentence of imprisonment upon a convict that may be discerned is obviously to isolate him from society so as to

render the society immune from those who are prone to criminal tendencies.

At the same time, efforts are also to be made to reform such convict so that when he is released upon completion of sentence, not only he is able to adjust in society but even society accepts him back . At the same time, the public interest also demands that those who are habitual offenders and may have the tendency to commit the crime time and again are not casually extended benefit of furlough or parole. The said balance is maintained by taking into account the conduct of such person in jail and his previous antecedents, while considering the matter regarding furlough or parole.

9. Keeping the aforesaid purpose of sentencing and the need to ensure reformation, the controversy in the present case, on the basis of submissions raised above, may be crystalised and stated as under :

- (i) “Whether a convict can seek his release on ‘Parole’ under Section 3 of the Punjab Good Conduct (Prisoners Release) Act 1962, on ground of “*meeting members of his family*” or whether it is only on the grounds specified therein in Section 3 of the Act that he may be released on ‘Parole’, particularly keeping in view the fact that the convicts are also entitled to be released on furlough and the very object of release on furlough is to *‘meet members of the family’*?”
- (ii) Whether ground no. 3(1)(d) of the Act i.e. “*it is desirable to do so for any other sufficient cause*” be invoked by a convict to seek his release on ‘Parole’ just for the purpose of meeting his family simplicitor?

10. In order to address the aforesaid issue, it is apposite to refer to the relevant provisions pertaining to temporary release of prisoners on parole or furlough.

11. The Prisons Act, 1894, and the Prisoners Act, 1900, did not contain any specific provision pertaining to parole and/or furlough. However, Section 59 of the Prisons Act empowers States to make rules *inter alia* “for the shortening of sentences” and “for rewards for good conduct”. The States, in any case, are also well within their reach to legislate on issues related to prisons as the subject matter - “prisons, reformatories...” falls in the State List of the Seventh Schedule of the Constitution of India. Accordingly, the State of Punjab enacted “The Punjab Good Conduct Prisoners (Temporary Release) Act, 1962. Sections 3, 4 and 6 of the Act, which lay down the conditions under which a convict may be temporarily released on ‘Parole’ or ‘Furlough’, read as under:

3. Temporary Release of prisoners on certain grounds--

- (1) The State Government may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2) any prisoner if the State Government is satisfied that-
- (a) a member of the prisoner's family has died; or
 - (aa) husband or wife or son or daughter or father or mother or brother or sister or grand-father or grand-mother or grandson or grand-daughter or father-in-law or mother-in-law of the prisoner is seriously ill; or
 - (b) the marriage of the prisoner's son or daughter is to be celebrated; or
 - (c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land or any other land cultivated by him and no friend of the prisoner or a member of the prisoner's family is prepared to help him in this behalf in his absence; or
 - (cc) a lady prisoner is pregnant and is likely to deliver a child; or
 - (d) it is desirable so to do for any other sufficient cause.

Explanation- The expression "sufficient cause" includes-

- (1) serious damage to life or property of the member of the family caused by any natural calamity; or
 - (2) critical condition of any member of the family on account of accident; or
 - (3) delivery of child by the wife of the prisoner.
- (2) The period for which a prisoner may be released shall be determined by the State Government so as not to exceed-
- (a) where the prisoner is to be released on the ground specified in clause (a) of sub-section (1), fifteen days;
 - (b) where the prisoner is to be released on the ground specified in clause (aa) or clause (b) or clause (c) or clause (d) of sub-section (1), eight weeks; and
 - (c) where the prisoner is to be released on the ground specified in clause (cc) of sub-section (1), one hundred and twenty days (sixty days prior to the date of delivery of child and sixty days after the date of delivery of child.
- (2-A) The total period of temporary release of the prisoner, excluding the release availed of,-
- (i) on the death of a family member of the prisoner; or
 - (ii) by a female prisoner on account of delivery of child, as the case may be, shall not exceed sixteen weeks, during a calendar year and shall be availed of on quarterly basis:

Provided that a prisoner, may avail such release for a continuous period of sixteen weeks, during the period falling between the 23rd day of November, 2018 to the 23rd day of November, 2019, as a onetime measure on pro-rata basis, however, subject to the other provisions of the Act:

Provided further that any prisoner, who is on temporary release for a specified period and wants to surrender before the expiry of his temporary release period, he shall be allowed to do so.

Provided further that during disasters under the Disaster Management Act, 2005, or epidemics under the Epidemics Diseases Act, 1897, the State Government may, by a special notification published in the Official Gazette, allow temporary release beyond the maximum period of sixteen weeks during a calendar year, and may also waive the condition of temporary release being availed of on quarterly basis.

- (3) The period of release under this section shall not count towards the total period of the sentence of a prisoner. (4) The State Government may by notification authorize any officer to exercise its power under this section in respect of all or any of the grounds specified therein.”

4. Temporary release of prisoners on furlough--

- (1) The State Government or any other officer authorized by it in this behalf may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily, on furlough, any

prisoner who has been sentenced to a term of imprisonment of not less than five years, and who -

- (a) has immediately before the date of his temporary release, undergone imprisonment for a period of three years, excluding remissions; and
- (b) has not during such period committed any jail offence and has earned at least three annual good conduct remissions;

Provided that nothing herein shall apply to a prisoner who-

- (i) is a habitual offender as defined in clause (3) of section 2 of the Punjab Habitual Offenders (Control and Reforms) Act, 1952, or
 - (ii) has been convicted of robbery or dacoity or such other offence as the State Government may, by notification, specify.
- (2) The period of furlough for which a prisoner is eligible under sub-section (1) shall be three weeks during the first year of his release and two weeks during each successive year thereafter.
- (3) Subject to the provisions of clause (d) of sub-section (3) of section 8, the period of release referred to in sub-section (1) shall count towards the total period of the sentence of a prisoner.

6. Cases where consultation with District Magistrate not necessary or where prisoners are not to be released--

Notwithstanding anything contained in sections 3 and 4,--

- (i) it shall not be necessary to consult the District Magistrate where the State Government is satisfied that the prisoner maintained good conduct during the period of his earlier release under any of the aforesaid sections; and
- (ii) no prisoner shall be entitled to be released under this Act, if on the report of the District Magistrate, where consultation with him is necessary, 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 maintenance of public order.

12. On perusal of the aforesaid provisions, it goes without saying that a prisoner to be entitled for his temporary release either on 'parole' or 'furlough', has to meet with certain parameters as regards his good conduct and the authorities concerned should also be satisfied that such convict, if released, is not likely to endanger the security of the State or maintenance of public order. While Section 3 of the Act pertaining to release on 'parole' specifically defines the

grounds on the basis of which convict may be released temporarily, there is no such specific ground defined for releasing a convict on 'furlough' other than conditions of his good conduct.

13. Both 'Parole' and 'Furlough' are considered as reformatory processes. These provisions were introduced with a view to humanizing the prison system. Parole is not a right, and is given to a prisoner for a specific reason. It may be denied to a prisoner even when he makes out a sufficient case, if the competent authority is satisfied that releasing the convict would not be in the interest of society. Parole can only be granted in event of some emergency and circumstances, such as the death of a family member, the marriage of a family member, a family member's major illness, or any other emergency situation. 'Furlough' is similar to 'parole', but with some significant differences. It is given in cases of long-term imprisonment. The period of furlough granted to a prisoner is treated as remission of his sentence. Though, unlike parole, furlough is seen as a matter of right for a prisoner, to be granted periodically irrespective of any reason, and merely to enable the prisoner to retain family and social ties, and to counter the ill-effects of long time imprisonment but as a matter of fact, even 'furlough' is not an absolute right and grant of furlough is subject to the conditions as prescribed, the most significant being the period already spent in custody and his conduct during such period.

14. The questions before this Court as formulated above are relatable to the object to be served by releasing a convict on 'parole' or 'furlough'. Since both the learned counsel have placed reliance upon a judgment of Hon'ble Supreme Court reported in 2017(15) SCC 55 titled as Asfaq verus State of

Rajasthan and others. to support their respective contentions as regards object of 'Parole', the said judgment needs to be discussed first and foremost. The learned counsel representing the petitioners have drawn the attention of this Court to Paras 12 and 13 of the judgment, which is reproduced herein-under:-

- “12. Many State Governments have formulated guidelines on parole in order to bring out objectivity in the decision making and to decide as to whether parole needs to be granted in a particular case or not. Such a decision in those cases is taken in accordance with the guidelines framed. Guidelines of some of the States stipulate two kinds of paroles, namely, custody parole and regular parole. “Custody parole” is generally granted in emergent circumstances like:
- (i) death of a family member;
 - (ii) marriage of a family member;
 - (iii) serious illness of a family member; or
 - (iv) any other emergent circumstances.
13. As far as “regular parole” is concerned, it may be given in the following cases:
- (i) serious illness of a family member;
 - (ii) critical conditions in the family on account of accident or death of a family member;
 - (iii) marriage of any member of the family of the convict;
 - (iv) delivery of a child by the wife of the convict if there is no other family member to take care of the spouse at home;
 - (v) serious damage to life or property of the family of the convict including damage caused by natural calamities;
 - (vi) **to maintain family and social ties;**
 - (vii) to pursue the filing of a special leave petition before this Court against a judgment delivered by the High Court convicting or upholding the conviction, as the case may be.

15. On the other hand, the learned State counsel, in addition to Paras 12 and 13 of the said judgment, drew the attention of this Court to Paras 10, 11, 14 and 16 also, which are reproduced herein-under :-

“10. In the first instance, it would be necessary to understand the meaning and purpose of grant of parole. It would be better understood when considered in contrast with furlough. These terms have been legally defined and judicially explained by the Courts from time to time.

11. There is a subtle distinction between parole and furlough. A parole can be defined as conditional release of prisoners i.e. an early release of a prisoner, conditional on good behaviour and regular reporting to the authorities for a set period of time. It can also be defined as a form of conditional pardon by which the convict is released before the expiration of his term. Thus, the parole is granted for good behaviour on the condition that parolee regularly reports to a supervising officer for a specified period. Such a release of the prisoner on parole can also be temporarily on some basic grounds. In that eventuality, it is to be treated as mere suspension of the sentence for time being, keeping the quantum of sentence intact. Release on parole is designed to afford some relief to the prisoners in certain specified exigencies. Such paroles are normally granted in certain situations some of which may be as follows:

- (i) a member of the prisoner's family has died or is seriously ill or the prisoner himself is seriously ill; or
- (ii) the marriage of the prisoner himself, his son, daughter, grandson, grand daughter, brother, sister, sister's son or daughter is to be celebrated; or
- (iii) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation of his land or his father's undivided land actually in possession of the prisoner; or
- (iv) it is desirable to do so for any other sufficient cause;
- (v) parole can be granted only after a portion of sentence is already served;
- (vi) if conditions of parole are not abided by the parolee he may be returned to serve his sentence in prison, such conditions may be such as those of committing a new offence; and

(vii) parole may also be granted on the basis of aspects related to health of convict himself.

14. Furlough, on the other hand, is a brief release from the prison. It is conditional and is given in case of long term imprisonment. The period of sentence spent on furlough by the prisoners need not be undergone by him as is done in the case of parole. Furlough is granted as a good conduct remission.

16. This Court, through various pronouncements, has laid down the differences between parole and furlough, few of which are as under:

- (i) Both parole and furlough are conditional release.
- (ii) Parole can be granted in case of short term imprisonment whereas in furlough it is granted in case of long term imprisonment.
- (iii) Duration of parole extends to one month whereas in the case of furlough it extends to fourteen days maximum.
- (iv) Parole is granted by Divisional Commissioner and furlough is granted by the Deputy Inspector General of Prisons.
- (v) For parole, specific reason is required, whereas furlough is meant for breaking the monotony of imprisonment.
- (vi) The term of imprisonment is not included in the computation of the term of parole, whereas it is vice versa in furlough.
- (vii) Parole can be granted number of times whereas there is limitation in the case of furlough.
- (viii) Since furlough is not granted for any particular reason, it can be denied in the interest of the society.”

16. Hon’ble the Supreme Court, while delivering judgment in Asfaq’s case (supra) was seized of a matter arising out of a case in Rajasthan wherein ‘Rajasthan Prisoners Release on Parole Rules, 1958’ were applicable and wherein specific provisions for grant of ‘*furlough*’ are not there but the provisions of ‘*parole*’ itself contain release of a convict on terms similar to ‘*furlough*’ as in Punjab. Rule 9 of the Rajasthan Rules is *akin* to ‘furlough’

whereas Rule 9-A and 10-A are similar to ‘parole’ as existing in the Punjab Good Conduct Prisoners (Temporary Release) Act 1962.

17. Paras 12 and 13 of Asfaq's case (supra) itself shows that Hon'ble Supreme Court has referred to the guidelines/grounds, as formulated by various State Governments. Though, various other States have enacted Acts and Rules with regard to temporary release of prisoners under certain conditions but there is no uniformity in rules as regards provisions contained therein and also as regards and terminology used. The ‘Uttar Pradesh Rules’ provide for ‘suspension of sentence’ (without mentioning the term parole or furlough or leave) by the Government generally up to one month. The ‘Tamil Nadu Rules’ of 1982 permit ‘*ordinary leave*’ for a period of 21 to 40 days whereas ‘*emergency leave*’ is permitted up to 15 days (to be spread over four spells). ‘Kerala Rules’ provides for 60 days of ‘*ordinary leave*’ in four spells, and up to 15 days ‘*emergency leave*’ at a time.
18. As already noticed above, the Punjab Good Conduct Prisoners (Temporary Release) Act 1962, has specific provisions in Sections 3 and 4 for temporary release of prisoners on ‘Parole’ or ‘Furlough’. While specific grounds are provided for release on ‘parole’ in Section 3 of the Act, there is no specific ground, as such, for release on furlough other than the condition of convict's good conduct. However, the object of release on ‘furlough’, as interpreted by various judgements is that ‘furlough’ is to help the convict to maintain family ties.
19. Hon'ble Apex Court in State of Maharashtra v. Suresh Pandurang Darvakar, (2006) 4 SCC 776, held as under:

“ While both parole and furlough are temporary releases from confinement, parole is granted only for a specific purpose. A prisoner is entitled to apply for furlough once he has served the minimum years of sentence as stipulated in Rule 3. The “furlough” and “parole” have two different purposes. It is not necessary to state the reasons while releasing the prisoner on furlough, but in case of parole reasons are to be indicated in terms of Rule 19. But release on furlough cannot be said to be an absolute right of the prisoner as culled out from Rule 17. It is subject to the conditions mentioned in Rules 4(4) and 6. Furlough is allowed periodically under Rule 3 irrespective of any particular reason merely with a view to enable the prisoner to have family association, family and social ties and to avoid ill-effect of continuous prison life. Period of furlough is treated as a period spent in the prison. But Rule 20 shows that period spent on parole is not to be counted as remission of sentence. Since the furlough is granted for no particular reason, it can be denied in the interest of society; whereas parole is to be granted only on sufficient cause being shown.”

20. Hon’ble Apex Court in 2021(4) R.C.R.(Criminal) 524, State of Gujarat and Another versus Narayan @ Narayan Sai @ Mota Bhagwan Asaram @ Asumal Harpalani held as follows :-

“20 The principles may be formulated in broad, general terms bearing in mind the caveat that the governing rules for parole and furlough have to be applied in each context. The principles are thus:

- (i) Furlough and parole envisage a short-term temporary release from custody;
- (ii) While parole is granted for the prisoner to meet a specific exigency, furlough may be granted after a stipulated number of years have been served without any reason;
- (iii) The grant of furlough is to break the monotony of imprisonment and to enable the convict to maintain continuity with family life and integration with society;
- (iv) Although furlough can be claimed without a reason, the prisoner does not have an absolute legal right to claim furlough;
- (v) The grant of furlough must be balanced against the public interest and can be refused to certain categories of prisoners.”

21. In a recent judgment 2022(2) RCR(Criminal) 862, Atbir Vs. N.C.T. Delhi, Hon'ble the Apex Court, while considering the matter regarding grant of furlough and its distinction from parole, has relied upon the above referred two judgements in Asfaq's case (supra) and Narayan's case (supra), while discussing the purpose of grant of 'furlough'.

22. From the judgements of Hon'ble Supreme Court referred to above, the following differences between parole and furlough may be discerned:

S.No	PAROLE	FURLOUGH
1	It is releasing a prisoner with a suspension of the sentence.	It is releasing a prisoner with remission of his sentence.
2	Parole may be granted in the case of short-term confinement.	Furlough may be granted only in the case of long-term confinement.
3	It can be granted a number of times during year.	Furlough may be granted once a year.
4	Parole may generally be granted for a period upto 8 weeks under Section 3 of the Act	Furlough lasts for maximum of 3 weeks under Section 4 of the Act.
5	A specific justification is necessary, for grant of parole.	It is to break the monotony of punishment so no justification is needed, if condition of period undergone and good conduct is met
6	The days of parole aren't included within the sentenced period.	The sentence of convict goes along with the furlough period.
7	It is granted by the Divisional Commissioner.	It is granted by the Deputy Inspector General of Prisons.

23. The 'Model Prison Manual, 2016', on which the learned counsel has placed reliance is in the nature of guidelines approved by Ministry of Home Affairs, with an object of bringing about uniformity in laws, rules and regulations governing the administration of prisons and the management of prisoners all over the country. The objectives specified in Para 19.02 of the Model Prison

Manual, 2016 have been stated collectively both as regards 'parole' and 'furlough' and it would be rather hazardous to hold that a prisoner can be granted 'parole' simply for the reason of meeting members of his family. The provisions of Sections 3 and 4 of the Act fully serve the objectives delineated in said guidelines inasmuch as it is furlough, which is specifically granted to serve the sole object of providing the convict an opportunity to be in touch with members of his family and be part of the society so that he does not feel like alien when he is released from jail, upon completion of term imprisonment.

24. While the object of releasing on parole can well be discerned from the language of Section 3 of the Prisoners Act itself i.e. existence of certain exigencies requiring the presence of the convict such as death in the family, marriage in the family, attend to agriculture activity etc., it also goes without saying that such release would also serve the purpose of providing the accused with an opportunity to be with his family as per familial and social requirements and obviously to remain in touch with the family. Thus, it can safely be said that release on parole on specific grounds, in any case, also serves a secondary object of helping the convict maintain touch with his family and society.
25. The aforesaid distinction, as drawn by Hon'ble Supreme Court, leaves no manner of doubt that the object to be achieved for grant of furlough is specifically to enable the convict to be in touch with his family and society so as to ensure that upon completion of sentence, he is able to adjust comfortably and is also accepted by the society. Once there is a provision for release of a convict for a certain period during a year so as to meet members

of his family, the convict cannot pray for his release for the same purpose by seeking parole on this very ground when such specific ground is nowhere prescribed in Section 3 of the Prisoners Act wherein definite grounds have been stated for grant of parole. Rather, parole is granted only in case of existence of some emergent situation or exigency and is not granted as of right.

26. Though, in the judgments of this Court i.e. Mohan Singh's case (supra), Sukhraj Singh's case (supra) and Asfaq's case (supra), which have been pressed into service by learned counsel for the petitioners, the petitioners therein who had applied for grant of 'parole' to meet family have been granted parole but neither the question as regards legality of entitlement on such ground was raised nor any of the judgments of Hon'ble Supreme Court as discussed above, seem to have been brought to the notice of the Court in the said cases. The availability of the grounds for grant of 'parole' or 'furlough' can be well discerned from the distinction between parole and furlough drawn by the Hon'ble Supreme court in judgment rendered in Narayan's case (supra) wherein it is defined that purpose of grant of furlough is to break monotony of imprisonment and to maintain familial ties and can be claimed without any reason subject to prescribed conditions.
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.

31. Both the issues, having been decided against the petitioners, this Court need not go into the question as to whether the opinion of the authorities concerned that the petitioners, in case released on parole, were likely to hamper peace and maintenance of law and order on the ground that such opinion is not supported by any facts.
32. Consequently, none of the petitioners in either of the two cases is found to be entitled to be released on parole on the grounds on which it had been sought by the petitioners. Consequently, this Court does not find any ground to set aside the impugned orders. Both the petitions, being sans merit, are hereby dismissed. Needless to mention, it shall always be open to the petitioners to apply for parole afresh on any such ground, as may be available to them.

27.2.2023

kamal

(Gurvinder Singh Gill)
JudgeWhether speaking /reasoned
Whether ReportableYes / No
Yes / No