

233 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-8973-2022

DATE OF DECISION:-24.05.2023

Lakhwinder Singh @ Lakha @ Lakhvir

...Petitioner.

Vs.

State of Punjab and others

...Respondents..

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. S.S. Maini, Advocate for for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA, J.

1. By way of present petition filed under Article 226/227 of the Constitution of India, prayer has been made for quashing of impugned order dated 13.05.2022 passed by respondent No.2, whereby, grant of parole to the petitioner by invoking Section 3(1)(d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short, "the Act"), so as to meet his old parents, has been declined.

2. Very briefly, petitioner was arrayed as accused in FIR No.49 dated 10.05.2019, under Sections 489-A, 489-B, 489-C and 489-D IPC, registered at Police Station Badhni Kalan, District Moga and he was convicted and sentenced to undergo RI for 10 years vide judgment dated 07.09.2021 passed by the court of learned Sessions Judge, Moga. Thereafter, petitioner applied for 08 weeks parole before jail authorities invoking Section 3(1) (d) of the Act, so as to meet his family members and to look after his household

affairs, but the aforesaid prayer stands declined vide order dated 13.05.2022 passed by the court of District Magistrate, Moga, based on report given by the Senior Superintendent of Police, Moga, by recording that the grant of parole to petitioner shall cause danger to the peace for the residents of village Badhni Kalan, District Moga as he is involved in 04 other cases.

3. Learned counsel for the petitioner submits that neither in the impugned order dated 13.05.2022; nor in its written reply, State has mentioned about any material so as to substantiate the plea of danger to the peace of residents of the village. He further submits that there is nothing adverse or against the conduct and behavior of the petitioner in the jail.

4. On the other hand, learned State counsel opposes the prayer made on behalf of the petitioner while referring to the written statement dated 15.11.2022 filed by way of affidavit of Manjit Singh, Deputy Superintendent of Police, Subdivision Nihal Singh Wala, District Moga, submits that the grant of parole to the petitioner shall cause danger to the peace for residents of the area and that is why the prayer made by the petitioner was declined by the District Magistrate, Moga.

5. I have heard learned counsel for the parties and gone through the paper book, I find substance in the submissions made on behalf of the petitioner.

6. Neither from the impugned order; nor even from the entire written statement filed on behalf of the State, it can be made out as to what substantial material was there before the concerned authorities i.e. the SSP or District Magistrate, so as to reach the conclusion that the release of petitioner on parole was going to cause danger to the peace of residents of the village. Mere fact that the petitioner has been involved in four other

cases would not in my view create any kind of threat or danger to the peace of the residents of village, in the absence of any other substantial material. The detail of the cases pending against the petitioner, as detailed in the reply filed by the State is as under:-

1. FIR No.44 of 02.05.2019 under SEction 174-A, Police Station Badhni Kalan (sentence 1 year and 11 months dated 19.04.2021)
2. FIR No.132 dated 19.12.2017, under Sections 22, 29 of NDPS Act, 1985 (Act No.61) registered at Police Station Badhni Kalan (sentence undergone dated 13.01.2022)
3. FIR No.49 dated 10.05.2019 under Section 489-A, 489-B, 489-C and 489-D of IPC Act, registered at Police Station Badhni Kalan (sentence for 10 years dated 07.09.2021)
4. FIR No.109 dated 19.10.2017, under Section 188, registered at Police Station Badhni Kalan, (Sentence 01 month dated 19.04.2021).

7. Even otherwise, a perusal of impugned order itself shows that the respectables and the Panchayat of the village have submitted their no objection to the release of petitioner on parole, which itself shows that the apprehension of the District Magistrate, Moga is misplaced and uncalled for.

8. In view of the discussion made herein above, the petition is allowed. Impugned order dated 13.05.2022 passed by the District Magistrate, Moga is hereby quashed and the petitioner is ordered to be released on parole for a period of 08 weeks w.e.f. 29.05.2023 to 24.07.2023 to meet his family members, the old parents and to look after his household affairs, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the authorities concerned besides, furnishing an undertaking

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to maintain good behaviour during the period of parole.

9. The petitioner is further directed to surrender before the concerned Jail authorities on 25.07.2022 at 10:00 a.m. positively.

24.05.2023
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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No