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

CRWP-8365-2023

Date of decision:19.10.2023

BHAWNA

...Petitioner

Versus

THE STATE OF U.T. CHANDIGARH AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MR. JUSTICE KULDEEP TIWARI**

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

Mr. Amit Kumar Goyal, A.P.P. for U.T. Chandigarh.

SURESHWAR THAKUR, J. (ORAL)

1. Reply on affidavit to the petition has been instituted on behalf of the State, which is taken on record.
2. The present petitioner has been convicted and sentenced by the learned Trial Court, Chandigarh, respectively on 21.01.2022, and, 27.01.2022, to undergo rigorous imprisonment for 14 years under Section 370(5) and under Section 120-B of the IPC, for 3 years under Section 81 of Juvenile Justice (Care & Protection of Children) Act, 2015, in FIR bearing No.163 of 03.8.2020, registered under Sections 370, 120-B and 34 of the IPC, at Police Station Sector 31, District Chandigarh.
3. The above made verdict of conviction, and, consequent therewith sentence(s) (supra), as became imposed upon the convict, has been challenged by her through hers rearing a criminal appeal bearing No. CRA-D-155-DB-2020, before this Court.
4. During the pendency of the appeal (supra) before this Court, the convict preferred an application, claiming therein the relief of her becoming released on parole, lasting upto a duration of 28 days, rather for the relevant purpose. The authority concerned, after eliciting the report of the police officer concerned, has made a declining order on the relevant application, and, the above declining order, which

becomes enclosed in Annexure P-3 to the instant petition, has led the petitioner to access this Court.

5. A reading of the declining order (Annexure P-3) reveals, that the petitioner is not residing in the jurisdiction of Police Station-49, Chandigarh, thus the presence of the petitioner is dangerous to the security of State and prejudicial to the maintenance of public order. However, the above purported threat of adverse effect on the society, rather becoming engendered, upon the petitioner becoming released on parole, is not founded upon any credible and tangible evidence. Therefore, since in the wake of the above, the declining order (supra) is obviously made with a complete lack of application of mind, and/or is surmisely drawn, therefore, the same is required to be rejected.

6. Therefore, the petition is allowed, and, the impugned order (Annexure P-3) is quashed and set aside. The petitioner is ordered to be released on parole for 28 days, from the prison concerned, but subject to hers furnishing personal and surety bonds in a sum of Rs. 1 lakh, and, to the satisfaction of the Superintendent of Jail concerned, where she is extantly lodged, and, but with an undertaking therein that immediately on expiry of the afore period, she shall re-step into the prison concerned. The stepping outside the prison of the convict-petitioner shall commence in the evening of 20.10.2023, and, shall last uptill the morning of 16.11.2023.

7. If the above condition is breached, and, the petitioner does not re-step into the prison concerned, immediately on the expiry of 28 days, i.e. on 16.11.2023, thereupon, liberty is reserved to the jurisdictional SHO concerned, to forthwith arrest the petitioner, and, to thereafter produce her before the jurisdictional Magistrate concerned, for the latter making an order for the petitioner becoming committed to the prison concerned.

(SURESHWAR THAKUR)
JUDGE

19.10.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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