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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-8620-2023

Date of decision:28.11.2023

GURWINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MRS. JUSTICE SUDEEPTI SHARMA**

Present: Ms. Satinder Kaur, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

CRM-W-1715-2023

For good, and, valid reasons recorded in the application, the amended petition is allowed.

CRWP-8620-2023

1. The present petitioner has been convicted and sentenced by the learned Trial Court, Moga, on 17.10.2022, to undergo rigorous imprisonment for 20 years, besides fine of Rs.50,000/-, and in default of payment of fine to further undergo rigorous imprisonment for 1 year under Section 6 of POCSO Act; to undergo rigorous imprisonment for 2 years, besides fine of Rs.10,000/-, and in default of payment of fine to further undergo rigorous imprisonment for 1 month under Section 363 of the IPC; to undergo rigorous imprisonment for 1 year under Section 506 of the IPC, in FIR bearing No.126 of 5.8.2021, under Sections 363, 366-A, 376, 506 of IPC, and, under Section 6 of POCSO Act, registered at Police Station Kot Ise Khan.

2. The above made verdict of conviction, and, consequent therewith sentence(s) (supra), as became imposed upon the convict, has been challenged by him through his rearing a criminal appeal bearing No. CRA-D-1151-2022, before this Court.

3. During the pendency of the appeal (supra) before this Court, the convict preferred an application, claiming therein the relief of his becoming released on parole, lasting upto a duration of 8 weeks, 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-1 to the instant petition, has led the petitioner to access this Court.

4. A reading of the declining order (Annexure P-1) reveals, that there is possibility of absconding of the petitioner; security/maintenance of public order in the State may be threatened, and, he may participate in illegal activities, thus upon the convict being released on parole. 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 surmisedly drawn, therefore, the same is required to be rejected.

5. Therefore, the petition is allowed, and, the impugned order is quashed and set aside. The petitioner is ordered to be released on parole for 8 weeks, from the prison concerned, but subject to his furnishing personal and surety bonds in a sum of Rs. 1 lac each, and, to the satisfaction of the Superintendent of Jail concerned, where he is extantly lodged, and, but with an undertaking therein that immediately on expiry of the afore period, he shall re-step into the prison concerned. The stepping outside the prison of the convict-petitioner shall commence in the evening of 30.11.2023.

6. If the above condition is breached, and, the petitioner does not re-step into the prison concerned, immediately on the expiry of 8 weeks, thereupon, liberty is reserved to the jurisdictional SHO concerned, to forthwith arrest the petitioner, and, to thereafter produce him before the jurisdictional Magistrate concerned, for the latter making an order for the petitioner becoming committed to the prison concerned.

(SURESHWAR THAKUR)
JUDGE

28.11.2023

(SUDEEPTI SHARMA)
JUDGE

Ithlesh

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