

CRWP-10996-2022

**2023:PHHC:063015-DB
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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CRWP-10996-2022
Date of Decision : May 02, 2023**

GURPREET SINGH

-Petitioner

V/S

STATE OF PUNJAB AND OTHERS

-Respondents

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

Present : Mr. P.S. Mirpur, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.(ORAL)

1. The petitioner has been convicted by the learned Sessions Judge, Faridkot, for a charge drawn against him, for offences punishable under Section 302 and 506 of IPC, and, has also thereafter been sentenced to undergo R.I. for life, besides has been imposed sentence of fine comprised in a sum of Rs.50,000/-, in default whereof, he has been sentenced to undergo further imprisonment for 02 years, for an offence punishable under Section 302 of IPC, and, also has been sentenced to undergo R.I. for 02 years, for an offence punishable under Section 506 of IPC.

2. The petitioner accessed the authorities below, through an application, claiming therein his being granted eight weeks' parole, to enable him to meet his family members, and, to ensure that he is able to get treatment of his minor son, who is stated to be congenitally suffering from asthma. However, the authorities concerned, through Annexure P-3, made a declining order on the said application.

3. Today, the learned State counsel has placed before this Court, the original of the declining order, which suggests, that as a matter of fact, the relief (supra), as became asked for in the application, rather became declined to the petitioner.

4. Therefore, the petitioner becomes aggrieved, and, is led to institute thereagainst the instant writ petition, before this Court. The competent authority, who drew Annexure P-3, has not made any reference to the falsity of the necessity of the applicant thus ensuring his purveying treatment for his son, who is stated to be congenitally suffering from asthma. Therefore, the above referred stand is to be construed to be fuitful.

5. Be that as it may, yet on the basis of report received, from the SHO of the jurisdictional police station concerned, with reference therein, that in the event of parole being granted to the petitioner, there is a likelihood of disturbance being caused to the security of State, and, to the maintenance of public order, thus the declining order became passed. However, no tangible evidence in support thereof, exists on record, and, in absence of tangible evidence to support the said assigned reason, thus for declining parole, to the petitioner, resultantly it cannot be said, that the said assigned reason is firmly bedrocked on firm tangible cogent evidence. Necessarily, the said declining reason is to be construed to be drawn hypothetically or being surmisely drawn, and therefore, it suffers from gross non application of mind.

6. In sequel, the application of the petitioner is allowed, and, the impugned order is quashed and set aside. The petitioner shall be released from the prison concerned, but subject to his furnishing personal surety bonds in a sum of Rs.1 lakh each, to the satisfaction of the Superintendent of the Jail, where he is extantly lodged. In the bonds to be furnished, before the

Superintendent of the Jail concerned, the petitioner shall also make an undertaking, that on expiry of 8 weeks, after his being released from prison, he shall re-step into the prison concerned, and, in case, he does not step back into the prison, thereupon the SHO of the jurisdictional police station, shall be at liberty to forthwith arrest the petitioner, and to thereafter cause his appearance before the jurisdictional Magistrate concerned, so that he is put into judicial justody. The said undertaking be also, in case the need arises, be thus enforced.

7. The petition stands disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

May 02, 2023
devinder

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable	:	Yes/No