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

CRWP-10036-2023

Date of decision:12.10.2023

LALIT KUMAR

...Petitioner

Versus

U.T. CHANDIGARH AND OTHERS

...Respondents

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

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

Mr. Yashwant Singh Rathore, Addl. P.P. U.T. Chandigarh with
Ms. Sudha Singh, Advocate

SURESHWAR THAKUR, J. (ORAL)

1. Custody has been filed in the Court today, which is taken on record.
2. The present petitioner has been convicted by the learned Fast Track Special Court, Chandigarh, on 31.5.2022, in respect of charges drawn for offences punishable under Section 6 of the POCSO Act, and, under Section 506 of the IPC. Moreover, through a separate sentencing order, drawn on 1.6.2022, the learned trial Judge concerned, sentenced the petitioner to undergo rigorous imprisonment for a period of 20 years for commission of an offence punishable under Section 6 of the POCSO Act, besides also sentenced him to undergo rigorous imprisonment for a period of two years for commission of an offence under Section 506 of the IPC.
3. 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-768 of 2022, before this Court.

4. 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 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-1 to the instant petition, has led the petitioner to access this Court.

5. A reading of the declining order (Annexure P-1) reveals, that the petitioner has committed a heinous crime, besides there is possibility that he is likely to abscond during parole. However, the above purported apprehension that the petitioner is likely to abscond is completely faded from the fact, that when he earlier availed the facility of parole, the petitioner on his expiry of parole had re-stepped into the prison concerned. Hence, the above purported threat, 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 is quashed and set aside. The petitioner is ordered to be released on parole for 28 days, from the prison concerned, but subject to his furnishing personal and surety bonds in a sum of Rs. One Lakh each, but to the satisfaction of the Superintendent of Jail concerned, where he is extantly lodged, and, 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 13.10.2023, and, shall last uptill the morning of 10.11.2023.

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 10.11.2023, 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

12.10.2023
Ithlesh

(KULDEEP TIWARI)
JUDGE

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