

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

Criminal Writ Petition No. 11102 of 2022(O&M)

Date of Decision: April 12, 2023.

Sukhwinder Singh @ Pappu

..... PETITIONER (s)

Versus

State of Punjab and others

..... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MRS.JUSTICE RITU TAGORE**

Present: Mrs. BPK Brar, Advocate
for the petitioner.

Mr. M.S.Tiwana, AAG, Punjab.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Prayer in this petition is for quashing of order dated 30.08.2022 passed by respondent No.3-District Magistrate, Tarn Taran, whereby petitioner's request for releasing him on parole for eight weeks has been rejected.

Petitioner is presently undergoing imprisonment after his conviction and sentence under Section 22 of the NDPS Act vide judgment dated 18.01.2022 passed by the learned Additional Sessions Judge, SAS Nagar (Mohali) in FIR No.21 dated 15.05.2018, Police Station STF Phase-4, Mohali. He has been

sentenced to undergo imprisonment for 15 years. Criminal Appeal, CRA-D No.172 of 2022 against the said conviction and sentence is pending. Petitioner has applied for eight weeks parole to meet his family members and look after household affairs. Same has been rejected vide impugned order dated 30.08.2022. Aggrieved therefrom, present petition has been filed.

Learned counsel for the petitioner submits that impugned order dated 30.08.2022 is clearly unsustainable as it has been passed on consideration alien to the specific provisions of law. It is further submitted that case of the petitioner for grant of parole was duly recommended by the Superintendent, Central Jail, Shri Goindwal Sahib, however, the same has been rejected by the authorities in an arbitrary manner.

Learned counsel for the State, however, opposed the prayer of the petitioner on the ground he is involved in a number of other criminal cases of similar nature and is likely to commit some offence again, if released on parole.

Heard learned counsel for the parties.

Perusal of order dated 30.08.2022 (Annexure P1) reveals that petitioner's application for parole has been rejected on the ground that petitioner is a habitual criminal and he may abscond or indulge in the business of selling drugs again after his release on parole. It is relevant to refer to Section 6 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short, '1962 Act'), which reads as under:-

“6. Cases where consultation with District Magistrate not necessary or where prisoners are not to be released – Notwithstanding anything contained in section 3 and 4, -

(i) it shall not be necessary to consult the District Magistrate where the State Government is satisfied that the prisoner maintained good conduct during the period of his earlier release under any of the aforesaid sections; and

(ii) no prisoner shall be entitled to be released under this Act, if on the report of the District Magistrate, where consultation with him is necessary, the State Government or an officer authorised by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order”

It has been held in a plethora of cases that temporary release of a prisoner on parole or furlough can be denied only if the release is likely to endanger security of State or maintenance of public order. For arriving at such satisfaction that danger to security of State or maintenance of public order is indeed present, there has to be sufficient material before the District Magistrate for consideration. In the present case, there are general allegations that petitioner may abscond or can do the business of selling drugs again, if released on parole. However, no material has been adverted to in the reply or by learned State counsel during the course of arguments justifying such apprehension. Furthermore, no provision of 1962 Act has been cited which can be a bar/impediment for release of the petitioner on parole.

In our considered opinion, reasons for declining parole to the petitioner in the facts and circumstances of the case are unsustainable. The present case calls for reconsideration of the matter by the competent authority in accordance with law and parameters as laid down for grant of parole.

Accordingly, order dated 30.08.2022 (Annexure P1) is set aside with

a direction to the competent authority to reconsider the matter and decide the same expeditiously and preferably within a period of four weeks from receipt of certified copy of this order, by passing a speaking order, in accordance with law.

(LISA GILL)
JUDGE

April 12 , 2023.
'om'

(RITU TAGORE)
JUDGE

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