

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

232

CRWP-10296-2023

Date of Decision: 02.11.2023

Irfan

....Petitioner

Versus

The State of U.T. Chandigarh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE LALIT BATRA

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

Mr. Manish Bansal, Public Prosecutor
Mr. C.S.Bakshi, Additional Public Prosecutor
Mr. Rajiv Vij, Additional Public Prosecutor and
Mr. Navjit Singh, Advocate
for respondent No.1 – U.T. Chandigarh.

Mr. R.K.Singh, Inspector General of Police, U.T. Chandigarh
in person.

Anupinder Singh Grewal, J. (Oral)

The petitioner has prayed for issuance of directions to respondents No.1 and 2 to consider and decide the application for his release on parole for a period of 28 days in terms of Section 3 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962.

Learned counsel for the petitioner submits that the application for release on parole was pending before the competent authority for almost three months and only during the pendency of this petition, it has been rejected by the order dated 28.10.2023.

Learned Public Prosecutor has filed reply on behalf of respondent No.1 – U.T. Chandigarh, wherein a copy of the order dated 28.10.2023 has been appended. He submits that as the report of the District Magistrate stated that the release of the petitioner will have adverse effect on the law and order and on the security of the state.

Heard.

The petitioner has been convicted in FIR No.411 dated 18.11.2017 under Section 376-D IPC registered at Police Station Sector-36, Chandigarh and sentenced to undergo life imprisonment. He is not stated to be involved in any other criminal case. He had preferred an application for his release on parole earlier also which had been rejected by order dated 22.05.2021 which was challenged by the petitioner by preferring CRWP No.7330 of 2022 and this Court by order dated 12.04.2023, had allowed the petition and set aside the impugned order. The petitioner had been released on parole in pursuance to the order of this Court and had surrendered before the expiry of the period. There does not seem to be any untoward incident during that time. In terms of Section 6 (1) of the Punjab Good Conduct Prisoners (Temporary Release) Act, in case the convict has been released on parole on an earlier occasion, there would be no requirement of obtaining the report from the District Magistrate subsequently. The Section 6 (1) of the Punjab Good Conduct Prisoners (Temporary Release) Act, is reproduced hereunder:

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

(1) 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”.

It is manifest that the impugned order rejecting the case of the petitioner for his release on parole is unsustainable as there is no material to indicate that any untoward incident would take place or that his release on parole would endanger the law and order or the security of the State. He is not involved in any other criminal case and had not misused the concession of parole granted to him earlier. We, therefore, do not find any justifiable reason in the impugned order denying the petitioner the benefit of parole.

Consequently, the petition is allowed and the impugned order is set aside. The petitioner shall be released on parole for a period of four weeks subject to his furnishing requisite surety bonds to the satisfaction of the competent authority.

Pending application(s), if any, also stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

02.11.2023

Varinder Prashad

(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No