

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108+233

CRWP-10356-2023 (O&M)
Date of Decision: 02.11.2023

Kamal Hassan

....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. Hoshiar Singh Jaswal, Advocate
for the petitioner.

Mr. Manish Bansal, Public Prosecutor
Mr. C.S.Bakshi, Additional Public Prosecutor and
Mr. Rajiv Vij, Additional Public Prosecutor for
respondent – U.T. Chandigarh.

Anupinder Singh Grewal, J. (Oral)

The petitioner has challenged the order dated 13.07.2023 whereby his application for release on parole has been rejected.

Learned counsel for the petitioner submits that the petitioner had approached this Court after rejection of his application for parole on two previous occasions. This Court had allowed those two petitions and the petitioner had been released on parole. His conduct was good and he had surrendered before the expiry of the period of parole. The competent authority has once again rejected the case of the petitioner on similar grounds which had been set aside by this Court in utter disregard of Section 6 (1) of the Punjab Good Conduct Prisoners (Temporary Release) Act.

Learned Additional Public Prosecutor for respondent – U.T. Chandigarh, while referring to the reply submitted that the report was sought from the District Magistrate and as the report indicated that the release of the petitioner on parole could endanger the peace and law and order and he can commit crime during the parole period, his application had been rejected.

Heard.

The petitioner has sought his release on parole in terms of Section 3 of the Punjab Good Conduct Prisoners (Temporary Release) Act. He had earlier on two occasions sought his release on parole. On the first occasion, his application was dismissed by the competent authority on 25.01.2022 on the ground that adverse report had been received from the District Magistrate of the area where the petitioner permanently resides. The order had been challenged and this Court in CRM-W-546-2022 in/and CRWP-3110-2022 while setting aside the order dated 25.01.2022 had directed the release of the petitioner on parole. The petitioner had availed the parole and had surrendered in time. There does not appear to be anything adverse against his conduct. Later the petitioner had once again applied for his release on parole in terms of Section 3 of the Punjab Good Conduct Prisoners (Temporary Release) Act, and his case was rejected by the order dated 31.10.2022 on the similar ground that the report of the District Magistrate was adverse. The petitioner had to again approach to this Court and the impugned order dated 31.10.2022 was set aside by this Court in CRWP-10844-2022 and he was directed to be released on parole. The petitioner had been released on parole and had surrendered on

time and there was nothing against his conduct which would disqualify him from applying for parole again. The petitioner thereafter had applied for his release on parole which was rejected by respondent No.1 by the order dated 13.07.2023 (Annexure P/3), which is challenged in this petition. The petitioner is not stated to be involved in any other case. It is difficult to accept that he on his release on parole is likely to commit another offence especially when he had been released on parole on two previous occasions and no untoward incident was reported during that period.

A bare reading of the impugned order indicates that the case of the petitioner has once again been rejected on the ground of adverse report being received from the District Magistrate. It is manifest that the case of the petitioner for his release on parole has been repeatedly rejected on the same grounds which did not find favour with this Court and two previous petitions were allowed and the impugned orders had been set aside. It is difficult to comprehend as to why the respondent No.1 is repeatedly rejecting the case of the petitioner for his release on parole, although there is nothing adverse against his conduct by disregarding the provisions of Section 6 (1) of the Punjab Good Conduct Prisoners (Temporary Release) Act which is set out as under:-

“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 from reading of Section 6 (1) of the Punjab Good Conduct Prisoners (Temporary Release) Act that if the convict has maintained good conduct during the period of his release on parole on an earlier occasion there is no need to obtain report from the District Magistrate. Therefore, we have no hesitation in setting aside the impugned order dated 13.07.2023 (Annexure P/3).

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