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

CRWP-10974-2023

Date of decision:23.11.2023

GAURAV KAMBOJ

...Petitioner

Versus

U.T. CHANDIGARH AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Gurbir Singh Sandhu, Advocate for the petitioner.

Mr. Sidakmeet Singh, Addl. P.P., U.T. Chandigarh.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner has been convicted and sentenced by the learned Trial Court, Chandigarh, on 26.08.2022, to undergo rigorous imprisonment for 20 years, besides fine of Rs.30,000/-, and in default of payment of fine to further undergo rigorous imprisonment for 2 years, in FIR bearing No.69 of 24.8.2020, under Sections 363/366/376 of IPC, and, under Section 6 of POCSO Act, registered at Police Station Sector-19, Chandigarh.

2. 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-769-2022, before this Court.

3. 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

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becomes enclosed in Annexure P-3 to the instant petition, has led the petitioner to access this Court.

4. A reading of the declining order (Annexure P-3) reveals, that the presence of the petitioner is dangerous to the security of State and prejudicial to the maintenance of public order, thus upon the convict being released on parole. However, the above purported threat of adverse effect on the society, 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 surmisedly drawn, therefore, the same is required to be rejected.

5. 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. 1 lac each, and, to the satisfaction of the Superintendent of Jail concerned, where he is extantly lodged, and, but 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 25.11.2023, and, shall last uptill the morning of 23.12.2023.

6. 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 23.12.2023, 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

23.11.2023

Ithlesh

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No

(SUDEEPTI SHARMA)
JUDGE