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

CRWP-11066-2023

Date of decision:07.12.2023

RAKESH SHARMA

...Petitioner

Versus

THE STATE OF U.T. CHANDIGARH AND OTHERS

...Respondents

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

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

Mr. Sumit Jain, Addl. P.P., U.T. Chandigarh.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner has been convicted and sentenced by the learned Trial Court, Chandigarh, on 26/28.10.2021, to undergo life imprisonment, besides fine of Rs.25,000/-, under Section 304/34 of the IPC, registered at Police Station Industrial Area, 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-24-2022, 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 4 weeks, rather for the relevant

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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.

4. A reading of the declining order (Annexure P-1) reveals, that the son of the petitioner does not want his father to come on parole. He further revealed that there is danger to law and order, if the petitioner is released on parole, because neither family member of the petitioner nor any other person of his village are taking responsibility regarding good behaviour of the petitioner, thus upon the petitioner 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 surmisely 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 4 weeks, 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 District Magistrate 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 08.12.2023.

6. If the above condition is breached, and, the petitioner does not re-step into the prison concerned, immediately on the expiry of 4 weeks, thereupon, liberty is reserved to the jurisdictional SHO concerned, to forthwith

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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

07.14.2023

(SUDEEPTI SHARMA)
JUDGE

Ithlesh

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