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

CRWP-12081-2022 (O&M)

Date of Decision:21.08.2023

Gurmail Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH
HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

Present:- Mr. R.S. Brar, Advocate for the petitioner.

Ms. Ishima Randhawa, Addl. A.G. Punjab.

RAJ MOHAN SINGH J.(Oral)

1. Petitioner has preferred this petition under Article 226 of the Constitution of India for setting aside the order dated 27.10.2022 passed by the Deputy Commissioner-cum-District Magistrate, Moga/respondent No.3, dismissing the prayer for grant of parole to the petitioner under Section 3(1) (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (hereinafter to be referred to as the 1962 Act) as amended from time to time.

2. Learned counsel for the petitioner submits that the petitioner alongwith co-convict namely Iqbal Singh was tried for the offences under Section 302/34 IPC, in case FIR No.138 dated 02.09.2018, registered at Police Station Sadar Moga, and was convicted and sentenced to under rigorous imprisonment for life on 19.04.2022.

3. Against the conviction, an appeal of the petitioner i.e.CRA-D-481-2022 is pending before this Court. The petitioner applied for grant of parole for eight weeks on 05.09.2022 in terms of Section 3(1) (d) of the 1962 Act in order to meet the family members and also to look after the house-hold affairs. The Gram Panchayat and other respectables have also recommended the case of the release of the petitioner on parole but respondent No. 3 vide order dated 27.10.2022 has rejected the claim of the petitioner. The co-convict/Iqbal Singh has also assailed the aforesaid order and in his case vide order dated 05.05.2023 passed in CRM-167-2023 in/and CRWP-12043-2022 has allowed the prayer of co-convict thereby granting parole for a period of seven weeks subject to the condition that he would report to the SHO of the concerned police station once in a week i.e.on Monday.

4. Learned counsel for the petitioner submits that the case of the petitioner is squarely covered vide order dated 05.05.2023.

5. Notice of motion was issued in this case on 22.12.2022. Reply has also been filed by respondents No.2 to 4. The factum of grant of parole to the co-convict Iqbal Singh, vide order dated 05.05.2023 passed in CRM-167-2023 in/and CRWP-10243-2022 is not in dispute.

6. After hearing learned counsel for the parties, we deem it appropriate to consider the case of the petitioner at par with that of Iqbal Singh who had already been granted the prayer for grant of parole in terms of Section 3 (1)(d) of the 1962 Act.

7. For the reasons recorded hereinabove, we are of the considered opinion that the order dated 27.10.2022 passed by the District Magistrate, Moga is not legally sustainable and is thus set aside.

8. Consequently, the petition is allowed and the petitioner-Gurmail Singh, is granted parole for a period of 07 weeks subject to the condition that he would report to the concerned police station/SHO once in a week i.e.on Monday.
9. Pending application(s), if any, shall also stands disposed of.

(RAJ MOHAN SINGH)
JUDGE

(HARPREET SINGH BRAR)
JUDGE

21.08.2023
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No