

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

CRWP No.12104 of 2022 (O&M)

Date of decision : March 23, 2023

Palwinder Singh alias Pindi

... Petitioner

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. B.S. Sewak, Advocate
for petitioner.

Mr. Mohit Kapoor, Additional A.G. Punjab.

HARINDER SINGH SIDHU, J.

Petitioner, who is undergoing life imprisonment in case FIR No.83 dated 22.5.2016 under Sections 302, 307, 212, 216, 148, 149 IPC and under Section 25 of Arms Act, 1959, Police Station Sadar Amritsar, District Amritsar has filed the instant petition praying for quashing order dated 12.12.2022 (Annexure P-5), whereby, his case for grant of parole has been rejected.

Vide the impugned order dated 12.12.2022, the District Magistrate, Amritsar, on inquiry from Senior Superintendent of Police, Amritsar (Rural), has rejected the request of petitioner for grant of parole while observing as follows :-

“..... According to the report, the following cases have been registered against the prisoner Palwinder Singh alias Pindi son of Gurmeet Singh, resident of village Harsha Chhina, Police Station Rajasansi i.e. 1) FIR No.158 dated 31.12.2015 under Sections 307, 148, 149 of IPC and Sections 25/27/54/59 of Arms Act at Police Station Rajasansi; 2) FIR No.83 dated 2.5.2016 under Sections 302,

307, 343 IPC at Police Station Sadar Amritsar; 3) FIR No.240 dated 13.12.2016 under Section 420 IPC and Sections 21, 22, 61/85 of NDPS Act at Police Station Gate Hakima, Amritsar; 4) FIR No.133 dated 17.8.2022 under Sections 323, 24 IPC at Police Station at Gate Hakima, Amritsar; 5) FIR No.214 dated 24.9.2020 under Sections 21/61/85/29 of NDPS Act at Police Station Sadar Patti, Tarn Taran and the prisoner Palwinder Singh alias Pindi is an A-category gangster and against whom the above mentioned cases are registered under serious offences in different police stations. If he comes out of prison on parole leave then there will be fear of breach of peace and harmony and he can also cause loss of someone's life or property even on small issues because he has already committed very serious crimes. Apart from this, if Palwinder Singh alias Pindi released on parole then he can go to an unknown place from where he will never return as he is a habitual offender and has a criminal background. In view of above-mentioned facts and circumstances, there is a fear of breach of peace and harmony and keeping in view the parole leave to the prisoner Palwinder Singh alias Pindi is not recommended.”

Mr.Sewak, Ld. counsel for the petitioner has submitted that the appeal against conviction (CRA-D-364-DB-2020) of the petitioner is pending in the High Court. He has contended that the request of the petitioner for parole has been wrongly rejected on the ground that there is apprehension of breach of peace and harmony and that he is involved in other cases. The SSP, Amritsar (Rural), has wrongly stated in his report that the petitioner is a criminal of 'A' category.

Mr.Sewak has argued that the report of the SSP, Amritsar (Rural) is without any basis. He has argued that a criminal may be put into 'A' category only if he is leader of his gang or most active/close associate of the leader of the gang and is involved in sensational crimes in the State and if he is involved in minimum 10 criminal cases and falls in the definition of gangster and organised

crime and he is involved/active in the criminal cases of more than 05 districts of Punjab or other States. It is contended that the petitioner cannot be put into 'A' category of criminals.

It is further argued that merely because the petitioner is involved in other cases is no ground to deny parole to him. It is also contended that there is no material in the impugned order or any other report which would justify the assertion that there is apprehension of breach of peace and harmony in the event of the release of the petitioner on parole. Ld. counsel has further contended that father of petitioner is suffering from various serious ailments and needs specialized treatment. In this regard, medical record pertaining to father of the petitioner is annexed as Annexure P-1. It is further submitted that during medical check up in jail, petitioner has also been found suffering from Hepatitis-C.

Reply by way of affidavit of Shri Iqbal Singh Dhaliwal, Superintendent, Central Jail, Kapurthala on behalf of respondent No.4 has been filed, wherein, it is stated that apart from instant case, petitioner is involved in 7 other cases. He is facing trial and is on bail in all those cases. Six of these cases are registered in District Amritsar, while one in District Tarn Taran. It is further stated that the petitioner has undergone actual sentence of 06 years 05 months and 19 days as on 20.02.2023. He was tested HCV Reactive and now his condition is stable. In this regard, medical report of petitioner has been annexed as Annexure R-3. It is further stated that petitioner has not availed of parole earlier.

Section 6 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short "the Act") specifically provides that notwithstanding anything contained in Sections 3 and 4 no convicted prisoner shall be entitled to be released under this Act if, on the report of the District Magistrate, the State Government or an officer authorised by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order.

In the impugned order passed by the District Magistrate, Amritsar, there are no justifiable reasons given or material indicated to record a finding that the release of the petitioner is likely to endanger the security of the State or the maintenance of public order. Hence, the impugned order cannot sustain.

As per Section 3(2-A) of the Act a convicted prisoner may be released on regular parole for sixteen weeks, during a calender year which shall be availed of on quarterly basis.

Accordingly, the petition is allowed. The order dated 12.12.2022 (Annexure P-5) is quashed. Respondents are directed to release the petitioner on parole for a period of four weeks subject to his furnishing bond/ surety to the satisfaction of the District Magistrate/Competent Authority. The petitioner shall surrender before the Jail authorities on the expiry of the parole period.

(HARINDER SINGH SIDHU)
JUDGE

(LALIT BATRA)
JUDGE

March 23, 2023

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No