

In the High Court of Punjab and Haryana at Chandigarh

(207/2)

CRWP No.366 of 2024(O&M)

Date of Decision: 19.04.2024

Pawan Kumar

.....Petitioner

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Rahul Deswal, Advocate for the petitioner.

Mr. P.P. Chahar, Sr. DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner became tried, besides became convicted, by the learned Sessions Judge, Karnal, in respect of the charge which became framed in FIR No.592 dated 06.07.2019, lodged under Sections 120-B, 302, 307 IPC and Section 25 of Arms Act, registered at Police Station City Karnal, District Karnal.

2. In pursuance of the said made verdict of conviction by the learned Sessions Judge, Karnal, thus consequent thereto substantive sentence of imprisonment also became imposed upon the present petitioner. The present petitioner is serving the said imposed substantive sentence of imprisonment in District Jail, Karnal.

3. Though, against the verdict of conviction and consequent thereto substantive sentence of imprisonment which became imposed, upon, the petitioner/convict, by the learned Sessions Judge, Karnal, in respect of the FIR supra, the petitioner/convict has filed an appeal there-against before this Court. However, during the term of his serving sentence in District Jail,

Karnal, he had moved an application under Section 3 of the Haryana Good

Conduct Prisoner (Temporary Release), Act, 1988, whereby, he claimed that he be granted regular parole for a period of 04 weeks.

4. On the said application, the impugned Annexure P-2 became drawn. The drawing of Annexure P-2 denied relief to the petitioner and thereby leads him to file the instant Criminal Writ Petition before this Court.

5. To determine the validity of impugned Annexure P-2, it is deemed imperative to extract the reasons which were borne in mind by the Authority which made it. The said reasons are reproduced hereinafter:-

“District Magistrate, Karnal had earlier informed vide his office letter No.159/P.B. dated 25.10.2023 informed that the reasons for release of the prisoner on parole were investigated by the Superintendent of Police, Karnal and the Chief Medical Officer, Karnal. Superintendent of Police, Karnal vide report number 224354/ORD dated 15.09.2023, in the above regard, upon investigation by the Station House Officer, Police Station Sector-32/33 and Station House Officer, Munak, District Karnal, it was found that the prisoner Pawan son of Jaipal is undergoing his life sentence in above mentioned case/FIR No.592, dated 06.07.2019 under Section 302, 120-B, 307 IPC and Arms Act registered at Police Station City, District Karnal. The prisoner has released on parole from 25.07.2023 to 06.09.2023. During this period no complaint has been received against him. According to the records of the police station, there is no other case registered against the prisoner. The prisoner wants to come on regular parole for 04 weeks. The possibility of disturbing the peace of the area due to the release of the prisoner on parole cannot be ruled out. Hence, the

release of the petitioner on parole is not recommended.

Apart from this, it was written by the District Magistrate, Karnal that a report is also received from the Chief Medical Officer, Karnal on the said subject. The Chief Medical Officer, Karnal wrote to the Principal Medical Officer, District Civil Hospital, Karnal to constitute a Board for the medical examination of the prisoner's wife and to send a report. Chief Medical Officer, Karnal vide his office letter No.PMO/KNL/2023/7201 dated 18.10.2023 reported that on 18.10.2023 Inquiry Committee consisting of Dr. Deepa Sardana, L.M.O. and Dr. Shruti Sharma, Gynecologist, Female SPO, Suman Bala, Belt No.194/K.N.L. reached at 02:30 afternoon for conducting the medical examination of Smt. Manpreet wife of above mentioned convict Pawan Kumar. Smt. Manpreet Kaur wife of Pawan Kumar refused to undergo examination and gave in writing that I, Manpreet Kaur cannot get any checkup in the absence of her husband Pawan Kumar. According to the report of Superintendent District Jail, Karnal, the prisoner does not fall in the category of hardcore under the Parole Act 11 April 2022. Superintendent, District Jail, Karnal has recommended his case. Therefore, agreeing with the report of the Superintendent of Police, Karnal and the Chief Medical Officer, Karnal, the recommendation for release of above mentioned prisoner on parole is not made.”

6. A reading of the above extracted paragraphs, thus, reveal the

purported well-informed reasons which prevailed over the authority

concerned, rather to make a declining order on the parole application, but the said reasons are completely mis-founded and besides are ill-informed reasons.

7. Therefore, it appears that the authority concerned without making a keen and incisive application of mind, to the relevant regulations, rather had chosen to adopt ill-informed, pretextual and conjectural premises, and, thus had taken to decline the espoused parole to the present petitioner/convict, despite the fact that the earlier availed furlough/parole by the present petitioner/convict, never became abused by him. Resultantly, thereby, it was not required to be concluded by the competent authority, that there is every possibility of the present petitioner/convict, thus abusing the furlough/parole, as became ultimately denied to him, imperatively when the earlier availed facility, rather never became abused by him.

8. In consequence, upon finding merit in the instant petition, the same is allowed and the petitioner/convict – Pawan Kumar, is ordered to be released forthwith on parole, for a period of four weeks, from the prison concerned, but subject to his furnishing personal and surety bonds in a sum of Rs. One Lakh each, and, to the satisfaction of the Superintendent of Jail concerned, where he is extantly lodged, and, with an undertaking therein that immediately on expiry of the afore period, he shall re-step into the prison concerned. In case the said personal and surety bonds are tendered before the Superintendent of the jail concerned, and if he becomes so satisfied therefroms, therebys, he shall accept and attest the same. The stepping outside the prison of the convict-petitioner shall commence in the evening of 20.04.2024, and, shall last uptill the morning of 18.05.2024.

9. If the above condition is breached, and, the petitioner does not

re-step into the prison concerned, rather immediately on the expiry of the

above period, i.e. on 18.05.2024, 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. Furthermore, the present petitioner/convict is directed to surrender all the arms licences, and, also all the fire-arms which become there-unders, issued to him, thus, before the jurisdictional SHO concerned. He is also directed to, every week, record his presence before the jurisdictional SHO concerned.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

April 19, 2024
d.gulati

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