

In the High Court of Punjab and Haryana at Chandigarh

(213)

CRWP No. 665 of 2024 (O&M)

Date of Decision: 15.2.2024

Nachattar Singh @ Kali

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Satnampreet Singh Chauhan, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner instituted an application before the competent authority concerned, claiming therein the facility of his being released on parole from the prison concerned. However, a declining order (Annexure P-6) was made on the said application.

2. A reading of the impugned annexure reveals, that the present petitioner in respect of a criminal case figuring at Sr. No. 1, undergoing detention lasting upto the tenure of 14 years in pursuance to a verdict of conviction being made, upon him vis-a-vis FIR No. 43 dated 4.3.2018, registered at Police Station Shahkot, District Jalandhar. It appears, that though in the impugned annexure, the District Magistrate, Moga, initially concluded, that there was no danger to the security of the State, thus on the present petitioner becoming released on parole. However, in the face of the petitioner suffering incarceration in respect of conviction (supra) becoming handed over to him vis-a-vis the charges drawn against him under the NDPS

Act, besides his spending in prison the consequent thereto substantive

sentence of life imprisonment, as became imposed upon him. Therefore, the competent authority concluded, that on the present petitioner becoming released on parole, there is every possibility of his re-indulging in those offences in respect whereof, the conviction (*supra*), and, consequent thereto sentence (*supra*), became imposed upon him.

3. Be that as it may, the learned counsel for the petitioner, on the basis of the annexures, which are respectively appended as Annexures P-7 to P-9, has made a vehement submission before this Court, that insofar as the cases detailed at Sr. No. 2, 3 and 4 in the impugned order are concerned, the petitioner has either been erroneously shown to be implicated therein, and/or a verdict of acquittal becomes recorded upon him. Therefore, he submits, that only apart from the case figuring at Sr. No. 1, rather in respect of FIR No. 440 dated 30.12.2009, registered at Police Station Basti Bawa Khel, District Jalandhar, the petitioner has already undergone the sentence of imprisonment, as became imposed upon him.

4. The prohibition, as becomes cast upon the competent authority against any favourable order of parole becoming made on the applicant's parole application, is only restricted to the extent, that, upon, such a favourable order becoming passed, thereby there being an imminent danger to the security of the State. If so, since initially the competent authority concerned, has recorded a finding, that there is no such imminent danger to the security of the State, thus on the present petitioner becoming granted the facility of parole, thereby the further declining reason which has been propounded in the impugned annexure, that yet on the present petitioner becoming released on parole, there is every likelihood of his re-indulging or trading in banned narcotic substances or psychotropic drugs, but naturally

appears to be completely surmised, and, is/or is deemed to be made without any cogent material, excepting some secret sources, making echoings about the said re-indulgences by the present petitioner. The said secret sources which become the foundation for the above conclusion were also required to be appended with the report of the SSP, Moga. However, it appears that in the report of SSP, Moga, excepting the factum, that on the present petitioner becoming granted the facility of parole, there would be no danger to the security to the State, there are no speaking about the above, more so when, they are not stated so in the impugned annexure. Resultantly, when the arousal of imminent danger to the security of the State, but constitutes the prohibitive ground against the present petitioner becoming released on parole. Resultantly, when the other prohibitive ground(s) spelt in the subsequent part of the impugned order, that yet some secret sources revealing, that there is every possibility of the present petitioner re-indulging, and, trading in banned narcotic drugs or psychotropic substances, thus on the basis of secret sources, especially when such echoings are not made in the report of the SSP, Moga, therefore are but naturally required to be concluded to be lacking in any firm foundational strata. In consequence, reiteratedly the said ground is deemed to be made on surmises and conjectures, and, thereby the said declining order is required to be quashed and set aside.

5. Accordingly, the petition is allowed, and, the impugned order is quashed and set aside. The petitioner is ordered to be released on parole for eight weeks, from the prison concerned, but subject to his furnishing personal and surety bonds in a sum of Rs. Two Lacs 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. The stepping outside the prison of the convict-petitioner shall commence in the evening of 16.2.2024, and, shall last uptill the morning of 15.3.2024.

6. If the above condition is breached, and, the petitioner does not re-step into the prison concerned, immediately on the expiry of eight weeks, i.e. on 15.3.2024, 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.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

February 15, 2024
Gurpreet

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