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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-1534-2024
Date of decision : 02.12.2024

Ritu Raj ...Petitioner

Vs.

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. R.S.Dhull, Advocate
for the petitioner.
Mr. Hitesh Pandit, Addl.A.G.Haryana.

DEEPAK MANCHANDA, J.

1. This petition has been filed under Article 226 of the Constitution of India read with Section 3 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 for issuance of a writ in the nature of Certiorari for quashing order dated 18.01.2024 (Annexure P-1) passed by Divisional Commissioner, Division Karnal, District Karnal whereby the petitioner's application for the grant of parole has been declined.
2. The facts emerging from the record are that the petitioner has been convicted and sentenced to undergo life imprisonment in case FIR No. 1323 dated 08.12.2016 under section 148, 149, 302, 307, 34, 506 and 120-B of the Indian Penal Code (hereinafter to be referred to as 'IPC') registered at Police Station City Karnal, District Karnal and the conviction had been challenged vide appeal number CRA-D-1138-2022, which is pending final adjudication before this Court.
3. The petitioner made a request before the Superintendent, District Jail, Karnal for the grant of regular parole in lieu of the remission period which



had been earned by the petitioner for his good conduct in the jail premises but the same was not dealt with by the respondent-authorities. The petitioner then filed before this Court CRWP-11577-2023, which is still pending adjudication. In the meantime, the respondent/authorities, through order dated 18.01.2024, rejected the request for parole made by the petitioner on the ground that there was apprehension of disturbance of public peace & security and that there are chances that after the period of parole is over, the petitioner may not surrender. Order dated 18.01.2024 has been challenged through the instant petition.

4. In response to the averments made in this petition, the respondents have filed their reply, wherein the complete criminal record of the petitioner has been referred to justify the order impugned by the petitioner.

5. Learned counsel for the petitioner has argued that respondent No.2 has caused great injustice by not granting the parole to the petitioner. He submits that the petitioner is not involved in any other case and he has shown good conduct since he is in custody and has never been punished for any jail offence. Learned counsel has relied upon the judicial precedences in “Asfaq V/s State of Rajasthan and others (2017) 15 SCC 55”, “State of Haryana Vs. Jagdish”, 2010 (3) JT 341 and other judgments passed by this Court in “Phool Kumar Vs. State of Haryana and others” in CRWP-1350-2022, “Didar Singh Vs. State of Haryana and others” in CRM-M-7536-2007, “Mehboob Vs. State of Punjab through Director General of Prisons”, 2002 (4) RCR (Crl) 463, “Kehar Singh Vs. State of Haryana”, 1996(1) R.C.R.580 and “Tarjinder Singh Vs. State of Haryana”, 1992 (3) R.C.R. 562.

6. Learned State counsel, on the other hand, opposed the prayer of the petitioner and submits that no prisoner has a vested right to get the benefit of temporary release on parole. It is a concession, which is given to a prisoner upon fulfilling certain conditions and is the privilege granted by the State to the



convicted prisoners and can be given on certain specific grounds. However, learned State counsel does not dispute the fact that no other case is pending against the petitioner.

7. We have heard the learned counsel for the parties and have perused the material on record.

8. A perusal of the impugned order dated 18.01.2024 shows that the prayer of the petitioner was declined only on the ground of apprehension of breach of peace and security, which has not been sufficiently explained. Further, it is not disputed that no other criminal case is pending against the petitioner.

9. The Apex Court in *Asfaq vs. State of Rajasthan and others, 2017 (15) SCC 55* has also dealt with the issue with regard to grant of parole and furlough and held that a humanistic approach is to be adopted against those who are lodged in jails. The relevant portion of the said judgment reads thus:-

“15) The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. Main purpose of such provisions is to afford to them an opportunity to solve their personal and family problems and to enable them to maintain their links with society. Even citizens of this country have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, without employment prospects, without a fundamental knowledge of the communities to which they will return, and without resources, stand a significantly higher chance of failure. When offenders revert to criminal activity upon release, they frequently do so because they lack hope of merging into society as accepted citizens. Furloughs or parole can help prepare offenders for success.

16) Having noted the aforesaid public purpose in granting parole or furlough, ingrained in the reformation theory of sentencing, other competing public interest has also to be kept in mind while deciding as to whether in a particular case parole or furlough is to be granted or not. This public interest also demands that those who are habitual offenders and may have the tendency to commit the crime again after their release on parole or have the tendency to become threat to the law and order of the society, should not be released on parole. This aspect takes care of other objectives of sentencing, namely, deterrence and prevention. This side of the coin is the experience that great number of crimes are committed by the offenders who have been put back in the street after conviction. Therefore, while deciding as to whether a particular prisoner deserves to be released on parole or not,



the aforesaid aspects have also to be kept in mind. To put it tersely, the authorities are supposed to address the question as to whether the convict is such a person who has the tendency to commit such a crime or he is showing tendency to reform himself to become a good citizen

17) Thus, not all people in prison are appropriate for grant of furlough or parole. Obviously, society must isolate those who show patterns of preying upon victims. Yet administrators ought to encourage those offenders who demonstrate a commitment to reconcile with society and whose behaviour shows that aspire to live as law-abiding citizens. Thus, parole program should be used as a tool to shape such adjustments."

10. Further, the case of the petitioner is squarely covered by the judgment passed by this Court in CRWP No. 1324 of 2022, titled as "**Surender @ Choti Vs. State of Haryana and others**" decided on 20.10.2022. The relevant paragraph of the said judgment is extracted below:-

"Since the respondent authorities have presented the case of the petitioner in the category of hard-core prisoner, keeping in view his past conduct involving several cases and his continuous crime being a habit against society, the same issue has also been dealt with by the Hon'ble Supreme Court by giving a reference of a Frank Exner, a noted criminalist and sociologist in para 25 of the judgment that there may be a hard-core criminal who because of their crime and method of their dealing with the crime form associations, loyalties, and attitudes which tend to persist. Persistent criminal behavior may also be due to personality traits imposed frequently due to pathological traits of personalities, mental defectiveness, emotional instability, mental conflict, egocentrism, and psychosis, where the chances of repeating crimes with the number of previous arrests and the interval between the last and the next offence become shortened as the number of previous crime progresses. The purpose of criminological studies is a prognosis of the improbable occasional offenders and that of the irredeemable habitual offenders and hard-core criminals. This reference is being made only to depict and as a counter to the plea taken by the respondent authorities by terming the petitioner a hard-core criminal which may help to understand the criminal behavior and the continuous criminal character of the petitioner."

11. Given the above discussion, the present petition is allowed and the impugned order dated 18.01.2024 (Annexure P-1) is set aside. The petitioner shall be released on parole for a period of four weeks on furnishing the requisite bail bonds to the satisfaction of the competent authority and he shall

surrender before the jail authorities on the expiry of the said period after his



release and the period of parole shall be counted from the day after the date when the petitioner is released from jail.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

02.12.2024
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No