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2024:PHHC:084991

IN THE PUNJAB AND HARYANA HIGH COURT  
AT CHANDIGARH

CRWP-1633-2024  
Date of Decision: 03.07.2024

MODHI RAM

.....APPELLANT

VERSUS

STATE OF PUNJAB AND ORS

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Satinder Kaur, Advocate  
for the petitioner.

Mr. J. S. Rattu, DAG, Punjab

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SANDEEP MOUDGIL, J

1.
- The petitioner under Article 226/227 of the Constitution of India has invoked the writ jurisdiction of mandamus, thereby making prayer for directing Respondent no.3 to release the petitioner on parole for 8 weeks to meet his family members, whereby the parole case of the petitioner has been rejected by the District Magistrate Rajsamand (Rajasthan) vide letter dated 11.01.2024 (Annexure P-1) and on this basis, further the parole case has been rejected by the Additional Director General of Police (Prisons), Punjab Chandigarh vide order dated 02.05.2024(Annexure R-3).
2.
- It is averred in the petition that in pursuance of judgment of conviction and order of sentence dated 20.07.2023, the petitioner is undergoing 10 years of imprisonment in case bearing FIR No.52 dated 25.07.2012 under Section 18/61/85 of NDPS Act, PS. Sangat, District

Bathinda. Against the said judgment of conviction and order of sentence, the petitioner had filed CRA-S-2131-2023, which is still pending.

3. Further, it is averred that the petitioner approached respondent No.3-District Magistrate, Rajsamand, Rajasthan for grant of parole to meet his family members which was recommended to the concerned SSP which further referred the case to the concerned SHO, who after getting the enquiry done did not recommend to grant parole to the petitioner and on the basis of this enquiry report, Addl. District Magistrate rejected the parole vide order dated 11.01.2024(Annexure P-1). Therefore, the petitioner is seeking indulgence of this Court for grant of parole.

4. Learned State Counsel has filed reply on behalf of respondents No.1 and 2 and custody certificate of the petitioner which is taken on record. In the reply it is stated that the petitioner was earlier released on emergency parole for 15 days from 10.11.2023 to 26.11.2023 for performing last rituals on the death of his mother, thereafter he got surrendered timely. Further, the petitioner again applied for parole which was processed and forwarded to the District Magistrate Rajsamand (Rajasthan) vide letter dated 06.12.2023 which was recommended to SSP, Rajsamand for consideration wherein an enquiry was conducted by SHO stating that earlier the petitioner had been declared as proclaimed offender by this Hon'ble court and fearing the same might be repeated again thereby SHO did not recommend petitioner's parole.

5. On the basis of this report, Additional Director General of Police(Prisons), Punjab Chandigarh vide order dated 06.05.2024 rejected the parole of the petitioner(Annexure R-3).

6. Heard the learned counsel for the petitioner as well as learned State counsel and perused the record. The petitioner had sought grant of parole to meet his family members. However, vide letter dated 06.12.2023 (Annexure R-3), the case of the petitioner for grant of parole was considered and Senior Superintendent of Police had reported that since earlier the petitioner has been declared absconded and, as such, no recommendation was made for release of the petitioner on parole. The Punjab Good Conduct Prisoner's (Temporary Release) Act, 1962, was enacted for temporary release of the prisoners, on account of their conduct, but on certain conditions. It is though a privilege granted by the State to the prisoners, but however, it cannot be clipped for the vague reasons. The name of the Act itself suggests that in order to earn temporary release, the prisoner has to maintain good conduct, during his stay in the prison and furthermore, he has to behave properly during the period of parole and also not disturb the social peace.

7. Even though, in the impugned order it is stated that the Senior Superintendent of Police, Rajsmand had reported that the petitioner once had absconded which in future might be repeated by him again. Therefore, no recommendation has been made for their release, but however, nothing as such has been specified about the manner, in which the release of the petitioner on parole shall cause inconvenience to the State Authorities. The reason, so assigned in the impugned order is hence quite vague.

8. Perusal of the Custody Certificate annexed with the reply reveals that the petitioner has undergone total sentence of 2 years 11 months and 22 days (including remission) and after conviction he has undergone 8 months and 22 days in custody. There is nothing, as such, mentioned in the

custody certificate about the petitioner to have not maintained good conduct while his detention in jail, during the pendency of the trial.

9. In the given circumstances, the present petition, as such, is hereby allowed and the petitioner is hereby ordered to be released on parole for a period of 8 weeks, subject to his furnishing bail/surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned, within a period of 7 days from the date of receiving certified copy of this order.

03.07.2024  
Poonam Negi

(SANDEEP MOUDGIL)  
JUDGE

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