

CRWP-2550-2024
Decided on:-26.04.2024

....Petitioner..

....Respondents.

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

HARKESH MANUJA J. (Oral)

1. By way of present petition filed under Article 226/227 of the Constitution of India prayer is for setting aside the impugned order dated 08.02.2024 passed by the Deputy Commissioner-cum-District Magistrate, Bathinda, whereby, a prayer made on behalf of the petitioner for grant of regular parole stood declined with the following reasons:-

“According to the report of Senior Superintendent of Police, Bathinda, FIR No.7 dated 24.01.2016 U/S 302, 323, 148, 149 (Police Sadar Maur) District Bathinda. He is serving a 20 year sentence at the Central Jail, Bathinda. And another case is registered in Police Station Rama against the prisoner FIR No.68 dated 10.03.2018 under Section 324/341/323/34 IPC. According to this it is clear the prisoner may crime again and again. On to this report they prescribed he is quarrelsome type of man who has come out of jail and breach the peace and disturbing the peace of the area. Therefore, according to the above facts, it is not in the public interest to grant parole to prisoner Sukhpal Singh, therefore,

prisoner number 2737 Sukhpal Singh son of Naib Singh, resident of Balluana (Sadar Bathinda Police Station), District Bathinda, is rejected for 08 weeks parole.”

2. Learned counsel for the petitioner submits that having been implicated in FIR No.7 dated 24.01.2016, under Sections 302, 324, 323, 34 IPC, Police Station Sadar Maur, District Bathinda, the petitioner was convicted and sentenced vide judgment of conviction dated 11.09.2018 and order of sentence dated 12.09.2018 passed by the Additional Sessions Judge, Bathinda to the following effect:-

Sr. No.	Name of the accused	Offence	Punishment awarded/fine	In default
1	Mander Singh, Nazam Singh, Suba Singh, Hardev Kaur and Sukhpal Singh	148 IPC	RI for 03 years with fine of Rs.2000/- each	RI for 03 months
2.	Mander Singh	302 IPC	RI for life, with fine of Rs.20,000/-	RI for 06 months
3.	Nazam Singh, Suba Singh, Hardev Kaur and Sukhpal Singh	302 read with Section 149 IPC	RI for life, with fine of Rs.20,000/-	RI for 06 months
4	Mander Singh, Nazam Singh, Suba Singh, Hardev Kaur and Sukhpal Singh	323 IPC read with 149 IPC	RI for six months with fine of Rs.1000/- each	RI for 10 days

2.1 Learned counsel for the petitioner informs that the appeal against the judgment/order dated 11/12.09.2018 filed before this Court came to be declined vide judgment dated 11.04.2023 passed in CRA-D-951-DB-2018. She further submits that in January, 2024, petitioner applied for grant of regular parole before the Jail Authorities, which came to be declined vide

impugned order dated 08.02.2024 passed by the District Magistrate, Bathinda while relying upon report dated 10.01.2024 forwarded by the Senior Superintendent of Police, Bathinda, stating therein that the petitioner was a quarrelsome person and may indulge himself in similar type of crime and there was threat to the State security/maintenance of public order, in case he was released on parole.

3. Impugning the aforesaid order passed by the District Magistrate, Bathinda, learned counsel for the petitioner submits that the aforementioned order has been passed primarily for two reasons. Firstly, while relying upon the report submitted by the Senior Superintendent of Police, Bathinda and secondly, for the reason that the petitioner was involved in another FIR No.68 dated 10.03.2018, under Sections 324, 341, 323, 34 IPC. She further submits that mere fact that petitioner was involved in two cases, it could not have been recorded that the petitioner happens to be a quarrelsome person, especially when he already stood acquitted in FIR No.68 dated 10.03.2018, under Sections 324, 341, 323, 34 IPC, thus, impugned order is liable to be set aside.

4. On the other hand, learned State counsel vehemently opposes the prayer made on behalf of the petitioner while referring to the report submitted by the Senior Superintendent of Police, Bathinda, wherein, it has been specifically stated that the release of the petitioner on parole was going to be a threat to State Security/maintenance of public order and thus, impugned order warrants no interference.

5. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the

petitioner.

6. A perusal of impugned order shows that the same has been passed merely on the basis of report submitted by the SSP Bathinda, which records that the release of petitioner was going to be a threat to State Security/maintenance of public order, whereas, on the contrary, a perusal of report shows that for the purpose of recording the aforesaid satisfaction, the SSP, Bathinda has not relied upon any substantial material in support, which thus can just be said to be an apprehension. Moreover, the District Magistrate while passing the impugned order relied upon involvement of petitioner in two cases, whereas, he already stood acquitted in FIR No.68 dated 10.03.2018, vide judgment dated 06.08.2022 passed by the Court of Judicial Magistrate First Class, Talwandi Sabo and thus, the District Magistrate went into an error while declining the prayer made on behalf of the petitioner. Even Section 5-A of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, is not applicable to the present case as the petitioner is not a hardcore prisoner.

7. Moreover, meeting of prisoners to their families has been held to be very essential for their emotional health and thus, falls within the term “sufficient cause” being part of their human rights. Reference to this can be made to paras 15 to 17 of the judgment passed by the Hon’ble Apex Court in **“Asfaq vs. State of Rajasthan”, 2017 (15) SCC 55**, which are reproduced hereunder:-

“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.”

8. Keeping in view the above, I am of the considered opinion that the order dated 08.02.2024 passed by the Deputy Commissioner-cum-District Magistrate, Bathinda, is not legally sustainable and is accordingly set aside.
9. Consequently, the petition is allowed and petitioner-Sukhpal Singh is granted the parole for a period of 6 weeks subject to the condition that he would report to the Station House Officer of the concerned Police Station once in a every week on Monday.
10. Pending application(s), if any also stand(s) disposed of.

26.04.2024
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(HARKESH MANUJA)
JUDGE

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