

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRWP-2533-2024

Date of Decision:-29.04.2024

Sukhmander Singh.

.....Petitioner.

Vs.

State of Punjab & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Arshdeep Singh Sra, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, AAG Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in the present criminal writ petition under Article 226 of the Constitution of India is for issuance of a writ in the nature of Certiorari for setting aside the order dated 05.02.2024 (Annexure P-1) whereby the prayer of the petitioner seeking grant of 08 weeks parole to meet his family members has been declined.

2. The brief facts of the case are that FIR No.94 dated 26.10.2017 under Section 22 of the NDPS Act, 1985 came to be registered P.S. Sadar Budhlada, District Mansa. The petitioner was convicted and sentenced to RI for a period of 10 years and to pay a fine of Rs.1 lacs

The petitioner preferred an appeal before this Court bearing CRA-S-523-2023 challenging the judgment of conviction and order of sentence. The same was admitted vide order dated 21.03.2023 and stands pending before this Court.

3. The petitioner moved an application seeking grant of parole and the same was endorsed by the District Magistrate, Bathinda to the concerned police department, Bathinda for further verification. The application came to be rejected by the District Magistrate, Bathinda vide order dated 05.02.2024 (Annexure P-1).

4. The order dated 05.02.2024 (Annexure P-1) is under challenge in this petition.

5. The Counsel for the petitioner contends that the prayer of the petitioner for grant of parole has been rejected wrongfully on the ground that he was likely to abscond, commit the offences of a similar nature or cause breach of peace. None of these grounds were tenable in the absence of any specific input regarding the findings given. Therefore, the petitioner was entitled to the concession of parole, more so he was a first time offender with no criminal background.

6. The Counsel for the State on the other hand has filed reply by way of affidavit dated 28/29.04.2024 of Mr. Iqbal Singh, PPS, Superintendent, District Jail, Mansa in court today, which is taken on record. While referring to the said reply he contends that as per the impugned order the petitioner was likely to abscond, indulge in the business of selling drugs or cause breach of peace in case he is granted the concession of parole. Therefore, he was not entitled to the concession as prayed for. He however, fairly concedes that there were no specific inputs available against the petitioner for the authorities to come to the conclusion that they had.

7. I have heard learned Counsel for the parties.

8. A perusal of the record would reveal that the petitioner was convicted in a case arising out of FIR No.94 dated 26.10.2017 under Section 22 of the NDPS Act, 1985 registered P.S. Sadar Budhlada, District Mansa.

He has undergone more than 01 year of his total sentence of 10 years. He sought the concession of Parole. The Senior Superintendent of Police, Bathinda, however, did not recommend the same. Based on the said report, the impugned order came to be passed by the District Magistrate, Bathinda. The Parole has been declined primarily on account of the facts that the petitioner was likely to abscond, commit similar offence while on Parole or indulge in such acts as would cause breach of peace. A perusal of the record does not reveal any specific inputs available with the authorities for them to come to the conclusion that they have arrived at. The very fact that the petitioner is a first time offender would show that there is little possibility of him committing breach of peace or indulge in offences of similar nature.

9. In view of the above, I find considerable merit in the present petition and the same stands allowed. The impugned order dated 05.04.2024 (Annexure P-1) is quashed and the petitioner is directed to be released on Parole for a period of 04 weeks from the date of receipt of certified copy of this order subject to the conditions to be imposed by the Trial Court. In addition he or anyone on his behalf shall deposit a sum of Rs.50,000/- in the shape of an FDR with the Trial Court which shall be returned to him when he surrenders before the Jail Authorities concerned on completion of the period of 04 weeks Parole.

(JASJIT SINGH BEDI)
JUDGE

April 29, 2024
Vinay

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