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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CRWP-3511-2024 (O & M)
Date of Decision : 23.04.2024

Sanjeev Kumar YadavPetitioner

Versus

State of Union Territory and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Present : Mr. Sanjeev Sharma, Advocate
for the petitioner.

Mr. Mohit Rana, Advocate for
Mr. Charanjit Singh Bakshi, Additional Public Prosecutor
for respondents No.1 and 2.

SURESHWAR THAKUR, J. (Oral)

1. The present petitioner was convicted and became sentenced by the learned Judge Special Court, Chandigarh. The above conviction and the consequent thereto sentence, as imposed upon the present petitioner was in respect of charge(s) framed against him, for offence(s) punishable under Section 376 of IPC. The petitioner has chosen to challenge the conviction and the order of sentence, through his rearing thereagainst CRA-D-730-2022 before this Court.

2. However, during the pendency of the criminal appeal, before this Court, the petitioner claimed relief for his being released on parole lasting upto a duration of 28 days, rather to enable him to meet his family members, but on the said motion, a declining order, as becomes enclosed

in Annexure P-1, was passed. The said declining order has been challenged through his instituting the instant petition before this Court.

3. For the reasons to be assigned hereinafter, the declining order, as made, is ill informed besides is not founded upon any credible material and as such, is required to be quashed and set aside.

4. The primary reason is founded upon the fact, that it becomes rested upon the factum, that there are chances of the present petitioner, on his availing parole rather re-indulging in criminal activities. Moreover, there is a further reason thereins, that there is a possibility of the petitioner on his becoming released on parole, to cause breach of the law and order situation in the locality concerned.

5. Both the above made reasons as above stated are per se ill founded, as they are not supported by any credible material, rather obviously, they become founded upon mere apprehensions. Resultantly, as above stated, the impugned order is not only cryptic, but also suffers from the vice of the grossest non application of mind, and, deserves to be quashed and set aside.

6. Conspicuously also when there is no adverse report by the Superintendent of the Jail concerned, that during the period of the petitioner being incarcerated in jail, his indulging in commission of any jail offence.

Final order by this Court.

7. Therefore, the petition is allowed and the petitioner is ordered to be released on parole for 28 days, but subject to his furnishing personal and surety bonds in a sum of Rs.One Lakh each, but to the satisfaction of the Competent Authority, and, with an undertaking therein that

immediately on expiry of the afore period, he shall re-step into the prison concerned.

8. If the above condition is breached and the petitioner does not re-step into the prison concerned, immediately on the expiry of eight weeks, thereupon, liberty is reserved to the jurisdictional SHO concerned, to forthwith arrest the petitioner and to thereafter produce the petitioner before the jurisdictional Magistrate concerned, for the latter making an order for the petitioner becoming committed to the jail concerned.

(SURESHWAR THAKUR)
JUDGE

23.04.2024
Varinder Prashad

(LALIT BATRA)
JUDGE

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