

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

226

CRWP-7008-2023
Date of Decision : January 11, 2024

SHIVAM YADAV

-PETITIONER

V/S

STATE OF UT CHANDIGARH AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Hoshiar Singh Jaswal, Advocate
for the petitioner.

Mr. J.S. Toor, Addl. P.P., U.T. Chandigarh.

KULDEEP TIWARI, J. (ORAL)

1. Through the instant criminal writ petition, as filed under Article 226 of the Constitution of India, the petitioner seeks quashing of the order dated 16.06.2023 (Annexure P-1), whereby, the respondent No.1, has declined to grant parole to the petitioner. In addition, the petitioner seeks his being released on parole for a period of 4 weeks.
2. The reply, as furnished on affidavit of respondent No.2, and, the custody certificate of the petitioner, as filed by the learned State counsel, are taken on record.
3. The petitioner has been convicted by the learned Judge, Special Court, Chandigarh, through drawing a verdict of conviction on 22.01.2020, in case FIR No.74 dated 10.03.2018, under Section 22 of the N.D.P.S Act, registered at P.S. Sector 11, Chandigarh. Consequent to the drawing of the verdict of conviction, the petitioner has been sentenced to

undergo rigorous imprisonment for 7 years and to pay a fine of Rs.90,000/-.

4. The petitioner being eligible for parole, under provisions of The Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, and Amended Act 2018, applied before the respondent No.1, for grant of parole for 28 days. His case for parole was processed and forwarded to the District Magistrate, Mainpuri, U.P. (respondent No.3) for conducting inquiry.

5. Based upon the report of respondent No.3, the respondent No.1, through drawing Annexure P-1, which comprises the impugned order dated 16.06.2023, declined to grant parole to the petitioner.

6. A bare glance at the impugned order dated 16.06.2023 (Annexure P-1) makes revelations that the decision to decline parole to the petitioner was anchored upon a report made by the respondent No.3, wherein, an apprehension was expressed that the petitioner, being a vicious criminal, can abscond during his parole period.

7. The above assigned reason appears to be an ill-informed reason, as it is not supported by any cogent evidence. If so, without existence of the above tangible evidence on record, the respondent No.1, who drew the impugned order (Annexure P-1), could not draw it, whereby, it rejected the claim for parole, as preferred before it by the petitioner.

8. In view of what has been stated above, this Court deems it fit and appropriate not to curtail the liberty of the petitioner.

9. In sequel, after allowing the present petition, the petitioner is

ordered to be released from the prison concerned, by the Superintendent of the prison concerned, from the period commencing from the morning of 15.01.2024 to the evening of 12.02.2024. On expiry of the above term of parole, the petitioner shall forthwith re-step into the prison concerned and if he does not do so, thereupon the SHO of the jurisdictional police station concerned shall forthwith arrest the petitioner and thereafter, shall produce him before the learned Judicial Magistrate concerned.

10. Since the reply, as furnished by respondent No.2 reveals that the petitioner is also involved in FIR No.401 dated 05.10.2018, registered at P.S. Sector 39, Chandigarh, therefore, this Court deems it appropriate to grant the above relief subject to heavy personal surety bonds, as deemed appropriate by the competent authority concerned, being furnished by the petitioner.

11. The petition is allowed in the above terms.

January 11, 2024
devinder

(KULDEEP TIWARI)
JUDGE

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