

2024:PHHC:139762-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-7255-2024 (O & M)

Date of decision: 24.10.2024

Jai Dev

..... Petitioner

V/s

State of Punjab and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH

HON'BLE MR. JUSTICE JASJIT SINGH BEDI

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

Mr. Kuljeet Singh, Addl.A.G., Punjab.

SUDHIR SINGH, J. (Oral)

CRM-W-1334-2024

The application for placing on record the reply on behalf of the respondent-State as Annexure P/R/1, is allowed as prayed for subject to all just exceptions. The same is taken on record.

CRWP-7255-2024

By way of the present Criminal Writ Petition, the petitioner seeks issuance of a writ in the nature of Certiorari to set aside the impugned order dated 11.03.2024 (Annexure P-4) and order dated 24.02.2024 (Annexure P-3) passed by respondents No.5 and 4 respectively, whereby,

release of the petitioner, on regular parole, for a period of 08 weeks to meet his family members, has been declined.

2. The petitioner is a convict and is undergoing life imprisonment in FIR No.200 dated 27.09.2017 under Section 364-A IPC registered at Police Station Civil Line Bathinda, District Bathinda.

3. Notice of motion was issued in this case on 31.07.2024. Reply on behalf of respondent Nos. 1, 2, 3 and 5, has already been filed on 12.10.2024. In paras 2 and 3 of the reply, it is stated as under:-

“2. That the petitioner had given an application for his 08 weeks parole to the answering respondent which was processed and forwarded to District Magistrate, Bathinda vide letter no.457 dated 29.01.2024 and to Senior Superintendent of Police, Bathinda vide letter no.458 dated 29.01.2024 for initial verification from the concerned police station.

3. That after verification, release of the petitioner on parole was rejected by the District Magistrate, Bathinda vide letter no.1762/Peshi dated 11.03.2024 on the basis of the report received from the Senior Superintendent of Police, Bathinda whereby it was stated that there is threat to security of the State and maintenance of public order. Further, it has been reported that while the petitioner was on parole, another case under the NDPS Act was registered against the petitioner in which 200 g of Heroin was

recovered from him. As per report, the petitioner could again indulge in drug smuggling. Therefore, parole case of the petitioner had not been recommended by the District Magistrate.”

4. Today on the resumed hearing, learned State counsel has argued that earlier, the petitioner had availed the benefit of parole on three occasions. He further submits that while he was on third parole on 06.01.2023 and had to surrender back in jail on 04.03.2023, one more case bearing FIR No.16 dated 28.01.2023 under Section 21B/61/85 NDPS Act, Police Station Kotwali, Bathinda was registered against him, which led to his arrest and lodged back in jail on 31.01.2023. Thus, he had breached the conditions of parole and the benefit of parole to the petitioner was put at halt for next 01 year from the date of this offence as per instructions dated 17.09.2002 by the office of the Additional Director General of Police (Prisons), Punjab, Chandigarh. He submits that in case, the petitioner is released on parole, there is possibility that he would again indulge in drug smuggling.

5. Learned counsel for the petitioner submits due to false implication during third parole, the petitioner was implicated in a case bearing FIR No.16 dated 28.01.2023 under Section 21B/61/85 NDPS Act, Police Station Kotwali, Bathinda in which he was granted the concession of bail within a period 02 months. She further submits that the petitioner seeks his release on parole in order to meet his family members i.e. father and a younger sister. The petitioner undertakes and assures that during the period

of parole, he shall not indulge into any illegal action including drug smuggling.

6. On the other hand, the learned State counsel opposes the prayer of the petitioner for release on parole.

7. We have heard learned counsel for the petitioner as well as learned State counsel and have also perused the case file.

8. From the perusal of impugned order, it is borne out that the sole ground taken for rejection of parole to the petitioner is that while the petitioner was on his third parole, one more case i.e. FIR No.16 dated 28.01.2023 under Section 21B/61/85 NDPS Act was registered against him and he had misused the concession of parole. However, solely on this ground prayer of the petitioner cannot be rejected, as he is seeking his release on parole in order to meet his family i.e. father and a younger sister. Moreover, in the aforesaid FIR i.e. FIR No.16 dated 28.01.2023, the petitioner has already been granted the concession of bail.

9. In view of the above, we set aside the impugned order dated 11.03.2024 (Annexure P-4) and order dated 24.02.2024 (Annexure P-3) passed by respondents No.5 and 4 respectively and grant 04 weeks' parole to the petitioner commencing from the date of release, subject to his furnishing fresh bonds to the satisfaction of the competent authority/Chief Judicial Magistrate/Duty Magistrate concerned. The period of 04 weeks shall be counted from the date of his release. The releasing Court/Duty Magistrate shall also notify the dates of release and surrender of the petitioner. The petitioner shall surrender before the jail authorities on the date and time to be

notified by the releasing Court/Duty Magistrate. After surrender, the petitioner shall furnish a surrender certificate.

10. With the aforesaid observations/directions, the instant petition is disposed of.
11. All the pending application(s), if any, shall also stand disposed of.

(SUDHIR SINGH)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

October 24, 2024
sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No