

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

225

CRWP No. 8690 of 2023
Date of Decision: 30.01.2024

Sukhpreet Singh @ Gaggi.....Petitioner

Versus

State of Punjab and others.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Siddharth Gupta, Advocate for the petitioner.
Mr. Subhash Godara, Addl.AG, Punjab.

HARPREET SINGH BRAR, J.(ORAL)

1. The prayer in the present petition filed under Article 226/227 of the Constitution of India, is for setting aside the impugned order dated 19.08.2023 (Annexure P-8) passed by respondent No. 4, vide which the prayer of the petitioner for temporary release has been rejected.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner had approached the jail authorities seeking parole by filing representation (Annexure P-6) through his father. The jail authorities did not pass any order on the representation filed by the petitioner’s father. Thereafter, he approached this Court by filing CRWP-7857-2023, which was disposed of on 11.08.2023 (Annexure P-7) and the respondent No. 3 was directed to decide the representation of the petitioner and on the basis of direction issued by this Court vide Annexure P-8, the case of the petitioner was rejected on the ground that he had committed a serious jail offence. The approach adopted by respondent No. 4 is contrary to the object and purpose

well as Article 21 of the Constitution of India.

3. Per contra, learned State counsel submits that as per Circular R-2/T of Additional Director General of Police (Prisons), a policy decision has been taken and instructions were issued on 17.09.2022. The instructions contain clear cut stipulation that in case any convict is found involved in jail offence, then for one year from the date of the offence, his conduct shall not be considered as good conduct.

4. I have heard the learned counsel for the parties and after perusing the record.

5. This Court is of the considered opinion that any executive instructions cannot supersede the provisions of the Act of 1962. The Division Bench of this Court in **Gurpreet Singh v. State of Punjab 2012 (3) RCR (Criminal) 504** has dealt with the same issue and came to the conclusion that the object of Section 3 of the Act of 1962 provides for temporary release to the prisoner in case of certain eventualities and it was concluded that even the proviso attached to Sub Rule 2 of Rule 3 of the Rule cannot supersede the substantive provision of the Act of 1962 especially in case the immediate release of the petitioner has been sought to enable him to arrange for the treatment of his mother.

6. As per Section 3(1)(a) read with Section 3(2)(b) of The Punjab Good Conduct Prisoners (Temporary) Release Act, 1962, the prisoner is entitle to temporary release for a period of 6 weeks if father or mother of the convict is seriously ill. In view of the ratio of law laid down by the Division Bench of this Court in the case of **Gurpreet Singh (supra)**, the present petition is allowed and the impugned order dated 19.08.2023 is set aside.

7. The respondents are directed to release the petitioner for a period of 6 weeks subject to his furnishing adequate surety bonds to the

satisfaction of District Magistrate/Competent Authority and the petitioner shall surrender before the jail authorities on the expiry of the parole period. The parole period shall commence from the date of release of the petitioner.

30.01.2024

(HARPREET SINGH BRAR)

Rajeev (rvs)

JUDGE

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