

220 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-9618-2023

Date of decision: 09.01.2024

MAHESH KUMAR @ MANGA

...PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Verma, Advocate for the petitioner.

Mr. Aditya Kapoor, AAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

Prayer in the present petition is for setting aside the order dated 10.08.2023 passed by District Magistrate, Moga vide which, the prayer made by the petitioner for grant of temporary release of the petitioner on parole was declined.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner is undergoing the sentence of 10 years awarded to him in case bearing FIR No.135 dated 04.08.2016 registered under Section 22 of NDPS Act at Police Station City Moga and is confined in Central Jail, Faridkot. The appeal filed by the petitioner against the judgment of conviction is pending before this Court bearing No.CRA-S-426 of 2019 and the petitioner has undergone 04 years, 05 months and 20 days in the said case. Learned counsel further submits that earlier also, the case of the petitioner was declined for temporary release by the District Magistrate, Moga and he has approached this Court by filing CRWP No.3223 of 2021 titled as ***Mahesh Kumar @ Manga vs. State of Punjab and others*** and he was allowed parole for 08 weeks and after availing the parole period, the petitioner has surrendered before the concerned jail authorities within time and he has not misused the concession.

Per contra, learned State counsel opposes the grant of parole to the

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petitioner on the ground that he is a habitual offender and in case, he be released on parole, he is likely to abscond and there is apprehension of breach of Security of State/Maintenance of Public Order and learned State counsel has filed status report dated 08.01.2024 by way of an affidavit of Rajiv Kumar Arora, PPS, Superintendent, Central Jail, Faridkot on behalf of respondent Nos.1, 2, 3 and 5-State which is taken on record.

4. Learned counsel for the petitioner has relied upon **CRWP No.10162 of 2021** titled as **Naveen Kumar vs. State of Haryana and others**, wherein considering the similar circumstances, this Court allowed parole to the petitioner.

5. After hearing the learned counsel for the parties and perusal of the record, I find that the opinion formed by the District Magistrate, Moga is not based upon any objective assessment made by the jurisdictional police authorities. The case of the petitioner is duly supported by a resolution of Panchayat of his village and in view of the provisions contained under Article 21 of the Constitution of India, petitioner cannot be deprived of his rights to meet and look after his family members.

6. Accordingly, the present petition is allowed and the impugned order dated 10.08.2023 is set aside.

7. The petitioner is directed to be released on parole for a period of 08 weeks from the date of his release on his furnishing requisite surety bonds to the satisfaction of the District Magistrate, Moga or any other condition which may be imposed by the District Magistrate Moga.

(HARPREET SINGH BRAR)
JUDGE

January 09, 2024
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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |