

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRWP-10718-2023

Date of Decision: 14.2.2024

Jarnail Singh

....Petitioner

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Surinder Garg, Advocate,
for the petitioner.

Mr. J.S.Dhaliwal, AAG, Punjab

KARAMJIT SINGH, J.

Instant petition has been filed by the petitioner for setting aside of order dated 7.7.2023 (Annexure P-2) issued by respondent No.3 whereby request of the petitioner for grant of parole for a period of 8 weeks has been declined.

2. Counsel for the petitioner submits that the petitioner was convicted and sentenced to RI for 10 years and to pay fine under Section 21 of NDPS Act, vide judgment and order dated 19.4.2022 and is presently lodged in Central Jail, Faridkot. He further submits that the petitioner moved an application for grant of parole for a period of 8 weeks but the same was declined by respondent No.3 with the observation that there is report submitted by Senior Superintendent of Police, Faridkot to the effect that in case the petitioner is released on parole, there could be danger to State security and there is also apprehension of breach of maintenance of public order as he is a habitual offender.

3. Counsel for the petitioner further submits that in case the petitioner is released on parole, he will be able to attend the marriage of his niece which is fixed for 19.2.2024 and further, he will be able to meet his family members.

4. Present petition is opposed by the State counsel who submits that the petitioner was convicted and sentenced to imprisonment for a period of 10 years under NDPS Act and presently, he is undergoing sentence. However, the State counsel has not disputed the fact that there is a marriage in the family of the petitioner which is fixed for 19.2.2024.

5. I have considered the submissions made by the counsel for the parties.

6. This Court is of the view that the reasons given by respondent No.3 in the impugned order (Annexure P-2) are not sufficient to decline parole to the petitioner. The report submitted by SSP concerned is not substantiated by any authentic documents. The Division Bench of this Court in **Baljit Singh v. State of Punjab and others**; CRWP-1077-2016 while observing that the petitioner in that case will cause disturbance in public order cannot be made a ground to decline prayer for parole, held as under : -

“18. The threat to security of the State is to be understood as an act which may arise from within or outside the State. It is generally understood as an act of aggression from outside, or militant and terrorists operations engineered by foreign agencies. It can also be effected by passing of classified information like documents, secrets, maps etc. to foreign countries or through undesirable foreign links. An act which poses a threat to the State is to be considered as a threat

affecting the security of the State. 'Public order', however, is synonymous with public safety. It is something more than mere law and order. Every breach of peace does not lead to public disorder. Maintenance of public order is intended to prevent grave public disorder, which is not the same as maintenance of law and order. The latter is comparatively of a lesser gravity and in fact of local significance. An act which does not affect the public at large or has no impact on it, is not to be taken as an act affecting maintenance of public order. The distinction between law and order and public order is one of degree and extent of reach of the act in question on society. In the case of breach of law and order it affects individuals directly involved as distinct from the public at large. This would raise a law and order problem only. The true test is the potentiality of the act in question. One act may affect some individuals and local persons while another though of a similar nature may impact the public at large. An act which disturbs the even tempo of life of the public at large affects the maintenance of public order. These aspects are to be considered by the competent authorities under Act while deciding to recommend or not to recommend the temporary release of a prisoner on parole and/or passing orders for temporary release by the competent authorities under the Act. The exercise is not to be lightly conducted and the competent authorities are to apply their mind on the basis of inputs received by them for recommending or passing an order as the case may be for temporary release of prisoners on

parole.”

7. In view of above, the present petition is allowed and the impugned order dated 7.7.2023 is set aside. The petitioner is ordered to be released on parole for a period of 8 weeks to the satisfaction of the District Magistrate concerned who is further directed to impose such conditions as may be required as per jail manual towards the ends of securing presence of the petitioner in jail after the period of parole is over.

(KARAMJIT SINGH)
JUDGE

February 14, 2024
Paritosh Kumar

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