



CRWP-10539-2024 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP-10539-2024 (O&M)

Date of Decision: November 21, 2024

Sanjeev Kumar

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

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

Mr.J.S.Arora, DAG, Punjab.

.....

RAJESH BHARDWAJ, J.(ORAL)**CRM-W-1357-2024**

Application is allowed, as prayed for.

CRWP-10539-2024

1. Present petition has been filed praying for setting aside the impugned order, dated 02.09.2024, Annexure P-3, passed by respondent No.4, rejecting eight weeks parole to the petitioner.

2. It has been contended by learned counsel for the petitioner that petitioner was prosecuted in case FIR No.59, dated 12.06.2013 under Sections 21 and 22 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for brevity, 'the NDPS Act'), Police Station Goindwal Sahib, District Tarn Taran, convicted under Sections 21, 22 of the NDPS Act vide order, dated 12.01.2022 by learned Sessions Judge, Tarn Taran, and sentenced to

undergo RI for a period of ten years on 13.01.2022.



3. Learned counsel for the petitioner submits that the petitioner filed an application for grant of eight weeks parole to enable him to serve his mother, who is a paralytic patient, and to live with his family. It is submitted that the Superintendent Central Jail, Goindwal recommended the case of the petitioner for eight weeks parole on the basis of his good conduct as per statutory provisions under Section 3 of the Punjab Good Conduct Prisoners (Temporary Release Act) in May-June 2024. The case remained pending before the police for four months. However, no decision was taken on the same. Hence, the petitioner approached this Court by way of filing CRWP-6948-2024, which was disposed of by this Court vide order dated 22.07.2024 with a direction to the respondents to pass an appropriate orders on the application filed by the petitioner within a period of one month. In pursuance to the same, respondent No.4 has passed the impugned order, dated 02.09.2024, Annexure P-3, wherein case of the petitioner for grant of parole has been rejected in a cavalier manner. She submits that recovery, allegedly effected from the petitioner, was of 110 grams of heroin and 520 grams of intoxicant salt. She submits that the petitioner has undergone substantive sentence of about three years three months out of ten years. The petitioner has suffered a protracted trial of nine years also since the date of registration of the FIR, which is 12.06.2013. She submits that case of the petitioner has been rejected on the ground that security of the State and maintenance of public order would be at threat if he is released on parole. She submits that reason assigned for rejecting his parole is totally unsustainable in the eyes of law as there is no material to justify his rejection



Armitsar, District Amritsar has suffered statement mentioning that respectable or any other person has no objection if petitioner is granted parole.

4. Learned State counsel has filed the reply, dated 19.11.2024, today in Court by way of affidavit of Atul Soni, Deputy Superintendent of Police, sub Division Khadur Sahib, Samp at Goindwal Sahib. The same is taken on record. He has submitted that case of the petitioner for grant of parole was duly considered, however, it was found that petitioner is convicted in a drug smuggling case and he would jump parole or abscond after his release on parole and hence, the same was rightly rejected. He thus, submits that the petition being devoid of any merit deserves to be dismissed.

5. On hearing the learned counsel for the parties, it is apparent that petitioner was convicted and sentenced to undergo RI for a period of ten years by the trial Court in FIR No.59, dated 12.06.2013 under Sections 21 and 22 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (for brevity, 'the NDPS Act'), Police Station Goindwal Sahib, District Tarn Taran. The precise grievance raised by learned counsel for the petitioner before this Court is that he is a poor person and his mother is seriously ill. To meet his family, he filed an application for releasing him on parole for a period of eight weeks. However, after consideration, the respondent/authorities have rejected it only on the ground that security of the State and maintenance of public order would be at threat if he is released on parole.

6. On consideration, the Court finds the same to be totally unsustainable ground in the eyes of law. This Court time and again has



observed that the observations made in the order declining parole to a convict must be based on some material, which is missing in the present case. Reliance can be placed on Kulwinder Singh alias Taina vs State of Punjab and others 2024(3) Law Herald 1872, in which it has been held as under:

“10. Objective of parole are two fold i.e. rehabilitation of offender and protection of society. The main purpose of parole is that prisoner can maintain continuity together with his family, friends and community and at the same time to save prisoner from harmful effects of continuous prisoner life. Parole enables a prisoner to develop a feeling of self confidence that there is a life beyond prison. It helps prisoner to develop a sense of hope and active interest in his life with a view to rehabilitate the prisoner. Competent authority can always impose sufficient and necessary conditions while granting parole.

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12. XXXX As per impugned order, dated 10.04.2023 based on the report of Senior Superintendent of Police, Ferozepur, it is observed that in case petitioner is released on temporary parole, he can indulge in smuggling of narcotics and he may also abscond during parole. On this basis, prayer for parole was rejected by District Magistrate, Ferozepur by passing impugned order, dated 10.04.2023 (Annexure P-2). Such mere apprehension is not a valid ground for rejection of application filed by petitioner seeking parole. Affidavit filed by Deputy Superintendent of Police, Zira and impugned order dated 10.04.2023 Annexure P-2, do not come to the aid of the State justifying denial of parole to petitioner. Consideration of the question whether release of petitioner on parole is likely to endanger security of State or maintenance of public order has



clearly not been carried out by the competent authority. Cogent material to indicate the same rather than mere registration of various cases has to be available.”

7. Thus the order declining parole in a mechanical manner is unsustainable in the eyes of law. Thus, it is clear that there is no material on record to substantiate the ground on which parole of the petitioner has been declined by the authorities. The petitioner has placed on record the certificate from the Panchayat wherein it has been stated that there is no threat to the security etc. as has been observed in the impugned order.

8. Resultantly, the present petition is allowed. Impugned order, dated 02.09.2024 being unsustainable in law, is set aside. The respondent/State is directed to reconsider case of the petitioner on the anvil of the law settled and pass a fresh speaking order within a period of two weeks from the date of receipt of a copy of this order.

November 21, 2024
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |