

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

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**2024:PHHC:040500
CRWP-11532 of 2023
Date of decision : 20.03.2024**

Jaswant Singh @ Sher Singh @ Shera

....Petitioner

Versus

State of Punjab and Others

...Respondents

CORAM:HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Ruhani Chadha, Advocate for the petitioner.

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

PANKAJ JAIN, J. (ORAL)

The present criminal writ petition filed under Article 226 of the Constitution of India is directed against order dated 21.07.2023 passed by respondent No.3 whereby application filed by the petitioner seeking temporary release on parole stands rejected. Petitioner is a convict for offence punishable under Section 22 NDPS Act and has been sentenced to undergo RI for a period of 10 years along with fine of Rs.1lac. Appeal filed by the petitioner is pending before this Court. Petitioner applied for temporary release for 8 weeks. However, his prayer stands rejected. Holding that there are two FIRs pending against the petitioner and he is a threat to the security of State and maintenance of public order.

Reply by way of affidavit of Surinder Singh, PPS, Assistant Commissioner of Police, (Central) Amritsar on behalf of respondents No.1 and 4 filed wherein reliance is being placed upon report received from

District Magistrate. However, there is no material on record produced by the respondents to show that there exists reasonable basis to formulate such opinion. Petitioner is behind bars from the date of FIR i.e. 02.06. 2018. In **CRM-M-34013 of 2009 titled as 'Varun @ Gullu Vs. State of Haryana and others'** decided on 26.04.2010, it was held by the Coordinate Bench that the rejection in a mechanical manner on the ground of breach of peace is contrary to the provisions of Act, which are incorporated as a reformative measure. Similar, view had been taken in **Ram Chander Vs. State of Punjab and others, 2017 (3) RCR (Crl.) 340** that in the absence of any material before the District Magistrate denial of benefit of parole would not be justified which was being prayed for meeting the family members.

In the considered opinion of this Court, the petitioner is behind bars continuously without any break since the date of FIR, and his plea for temporary release on parole has been rejected without any basis. Authorities cannot reject prayer of applicant for temporary release by merely recording that he will be a threat to the State security in absence of any material to support such finding. The same is thus unsustainable and is set aside.

The present petition is allowed, impugned order passed by respondent No.3 dated 21.07.2023 Annexure P-2 is hereby set aside. Petitioner is ordered to be released on parole for a period of 8 weeks on furnishing of requisite bail bonds/surety bonds to the satisfaction of the Jail Authorities. The petitioner shall surrender back to the jail authority, on expiry of the parole period and during parole he shall abide by following conditions.

(i) The petitioner shall not mis-use the liberty granted.

- (ii) The petitioner shall not commit any offence while on parole.
- (iii) The petitioner shall deposit his passport, if any with the Jail Authority.
- (iv) The petitioner shall give his cellphone number to the jail authorities and shall not change his cell-phone number without permission of jail authorities.

In case of breach of any of the aforesaid conditions and those which may be imposed by the Jail Authorities, the prosecution shall be at liberty to move cancellation of parole of the petitioner.

Needless to say that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

Petition stands allowed, accordingly.

(PANKAJ JAIN)
JUDGE

March 20, 2024
Poonam Sharma

Whether speaking/reasoned	Yes
Whether Reportable :	No