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AT CHANDIGARH**

CRWP-11840-2023  
Decided on: 21.02.2024

Balbir Kumar @ Rinku

.... Petitioner

versus

State of Punjab and others

.... Respondents

**CORAM:   HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present:    Mr. Barjinder Singh, Advocate  
                 for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

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**Manjari Nehru Kaul, J. (Oral)**

Instant petition has been filed under Article 226/227 of the Constitution of India, seeking a writ of certiorari for setting aside the order dated 26.10.2023 (Annexure P-5) whereby the petitioner was denied the benefit of parole and further grant of parole under Sections 3 & 4 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short, 'the Act') for a period of 08 weeks.

2.            On being put to the notice by this Court on 11.12.2023, learned State counsel has filed reply by way of an affidavit of Superintendent, Central Jail, Kapurthala on behalf of respondent No. 4. While drawing the attention of this Court to the reply filed on behalf of respondent No.4 learned State counsel has submitted that the petitioner is serving a sentence in case FIR No.47 dated 20.05.2014 under Section 22/61/85 of the NDPS Act registered at Police Station

Sadar Phagwara District Kapurthala. Learned State counsel has opposed the prayer made by the petitioner for being extended the benefit of parole citing concerns about the petitioner possibly absconding and engaging in smuggling of intoxicant substances during parole.

3. Learned counsel appearing for the petitioner, on the other hand, has vehemently contended that the petitioner, who has been incarcerated since his conviction on 15.02.2023, has maintained good conduct all throughout and has not been involved in any untoward incident inside the jail. Learned counsel has further asserted that the petitioner is neither involved nor is he facing trial in any another case, and thus, the denial of parole based on vague and unsubstantiated apprehensions is unjust. Learned counsel for the petitioner has prayed that the petitioner be put to any stringent conditions while be extended the benefit of parole.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. Denying parole solely based on generalised assumptions, such as the likelihood of the convict indulging in illegal activities or being involved yet again in the same offence, upon release, cannot be justified. Suitable measures can be implemented, such as requiring the convict/prisoner to sign bonds committing to good behaviour and abstaining from illicit activities during parole, in addition to providing

substantial sureties.

In cases where there is no sufficient evidence before the authorities concerned/District Magistrate, denying parole solely to prevent the prisoners/convicts from visiting his family would be unjustified. Recognizing emotional well-being and familial ties as valid ground for temporary release is most crucial, especially when the convicts/prisoners poses minimal risk or does not meet any denial criteria under the relevant rules.

The decision making process with respect to grant parole/furlough should be based on a humanistic approach, ensuring adherence to the statutory regulations. Section 3(1)(a)(a) of the Act, provides for the permissible grounds for the temporary release of the convicts/prisoners on parole including familial visitation. It would also be apposite to refer to the observations made by Hon'ble the Supreme Court in ***Asfaq vs. State of Rajasthan and others, 2018 (1) SCC (Cri.) 390*** wherein while dealing with the question regarding parole and furlough it held as under:

*“14. From the aforesaid discussion, it follows that amongst the various grounds on which parole can be granted, the most important ground, which stands out, is that a prisoner should be allowed to maintain family and social ties. For this purpose, he has to come out for some time so that he is able to maintain his family and social contact. This reason finds justification in one of the objectives behind sentence and punishment, namely, reformation of the convict. The theory of criminology, which is largely accepted, underlines*

*that the main objectives which a State intends to achieve by punishing the culprit are: deterrence, prevention, retribution and reformation. When we recognise reformation as one of the objectives, it provides justification for letting of even the life convicts for short periods, on parole, in order to afford opportunities to such convicts not only to solve their personal and family problems but also to maintain their links with the society. Another objective which this theory underlines is that even such convicts have right to breathe fresh air, al beit for periods. These gestures on the part of the State, along with other measures, go a long way for redemption and rehabilitation of such prisoners. They are ultimately aimed for the good of the society and, therefore, are in public interest.*

*15. The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. Main purpose of such provisions is to afford to them an opportunity to solve their personal and family problems and to enable them to maintain their links with society. Even citizens of this country have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, without employment prospects, without a fundamental knowledge of the communities to which they will return, and without resources, stand a significantly higher chance of failure. When offenders revert to criminal activity upon release, they frequently do so because they lack hope of merging into society as accepted citizens. Furloughs or parole can help prepare offenders for success.”*

6. Thus, what can be culled out from the above observations of Hon'ble the Supreme Court is that the primary reason for granting

parole is to allow the prisoners to maintain family and social ties, aligning with the objective of reforming convict. Recognizing reformation as a key objective alongside deterrence, prevention and retribution justifies temporary release, even for life convicts, to address personal and familial issues and remain connected with the society. This humanistic approach aims at the redemption and rehabilitation of the prisoners for the greater good of the society. Provisions of Parole and furlough afford opportunities for prisoners to solve their personal and family problems while maintaining links with the society. Preparing offenders for successful re-entry into society is crucial for both their rehabilitation and public interest, as it reduces the likelihood of recidivism by providing necessary support networks, employment prospects and integration in the community. Parole/furlough contribute to the offenders' successful reintegration by offering hope and opportunities for a positive future outside the prison.

7. As a sequel to the above, present petition is allowed and the petitioner is granted parole for a period of 08 weeks from the date of release to the satisfaction of the District Magistrate concerned. The District Magistrate would impose any suitable conditions, which may be required to secure the presence of the petitioner in the jail after the expiry of parole period.

21.02.2024  
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Whether speaking/non-speaking?  
Whether reportable?

(MANJARI NEHRU KAUL)  
JUDGE

Yes/No  
Yes/No