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

CRWP-1749-2025**Date of Decision:09.04.2025****BALVIR KAUR**

... Petitioner

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Aminder Singh, Advocate, for the petitioner.

Mr. Ankit Grewal, DAG, Punjab.

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SANJIV BERRY, J. (ORAL)

The instant petition has been filed under Article 226/227 of the Constitution of India, has been preferred for issuance of appropriate writ in the nature of Certiorari for quashing of the impugned order dated 22.07.2024 (Annexure P-3) passed by respondent No.2 whereby the request of the petitioner for temporary release/parole for a period of 8 weeks was rejected without any valid basis.

2. In nutshell, brief facts of the case are that the petitioner after having been arrested in case FIR No. 34 dated 08.04.2017 under Section 22 of the NDPS Act, Police Station Bareta, District Mansa and was convicted vide order dated 19.10.2023 passed by the Court of learned Judge Special Court, Mansa and sentenced to undergo rigorous imprisonment for 10 years



and to pay fine of ₹1,00,000/-.

3. The petitioner thereafter preferred the appeal in CRA-S-314 of 2024 before this Court which is pending admitted. The petitioner moved an application for grant of temporary release/parole for 8 weeks to meet her family members as well as to complete certain household works, the same was rejected vide impugned order dated 22.07.2024 (Annexure P-3) passed by the learned Deputy Commissioner, Mansa (respondent No.-2), which has been assailed by way of present petition.

4. It is contended by learned counsel for the petitioner the petitioner was convicted vide judgment dated 19.10.2023 in the aforesaid case and he has challenged the conviction and order of sentence and the appeal preferred by the petitioner has been admitted by this Court in CRA-S-314-2024. He contends that in the meanwhile the petitioner had applied for grant of temporary release/parole for 8 weeks period, in order to meet her family members as well as to complete certain household works but the same has been declined by respondent No.2 on flimsy grounds, as a result, the lawful right of the petitioner has been wrongly declined. Hence, prays for acceptance of the petition.

5. Upon notice, the learned counsel for the State appeared on behalf of respondent-State and filed reply dated 08.03.2025 by way of affidavit of Deputy Superintendent of Police, Sub Division Budhlada, District Mansa. Learned counsel for the State by referring to the reply (supra) has opposed the request by submitting that the competent authority had found there being possibility of petitioner indulging in smuggling of narcotics again besides there being an apprehension of breach of peace and



security of the State. A separate reply by way of affidavit dated 09.03.2025 has also been filed by respondent No.4 Superintendent Distrit Jail Mansa wherein it is mentioned that the case of the petitioner for grant of parole was initiated by his office, however the same has been declined by the Deputy Commissioner/District Magistrate Mansa respondent No.2. vide order dated 22.07.2024 (Annexure R-2/T.

6. After considering the respective submissions and perusing the record, it transpires that the petitioner after having been convicted in the aforesaid case for having committed offences punishable under Section 22 (C) of NDPS Act, was sentenced to undergo Rigorous Imprisonment for 10 years and fine of ₹1,00,000/- vide judgment dated 19.10.2023 passed by learned Judge Special Court, Mansa. Petitioner had filed appeal CRA-S-314-2024 before this Court which is pending admitted. The petitioner has been in custody in this case for a period of 2 years and 4 months and 25 days including 1 years, 5 months and 23 days after conviction and has not yet availed the concession of parole. By way of the present petition petitioner is seeking relief of parole for meeting his family members.

7. It is worth mentioning here that the case for grant of temporary release on parole was duly forwarded and initiated by respondent No.4 but was rejected vide impugned order dated 22.07.2024 (Annexure P-3) by the learned Deputy Commissioner/District Magistrate Mansa (respondent No.- 2), on the basis of the report provided by the Senior Superintendent of Police Mansa, wherein, it has been mentioned that if, petitioner is granted concession of parole, then she will again indulge in smuggling of drugs and threat to law and order, and peace of the State.



8. It is relevant to mention here that Section 3(1)(d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, permits temporary release of prisoner on parole on the grounds as mentioned therein. The petitioner has never been released on parole and seeks parole to meet her family members. The concession of parole to a convict is regulated by the statute and the authorities thereunder cannot act arbitrarily, capriciously or without due application of mind. The decision on such application of convict has to be well reasoned and speaking one.

9. In this context, it is worth mentioning here that the Hon'ble Division Bench of this Court in ***Jugraj Singh @ Bhola Vs. State of Punjab and others, 2010 (25) R.C.R. (Criminal) 138*** has held as under:-

“It is also conceded position that the petitioner can be temporarily released on parole for four weeks under Clause (d) of sub-section (1) of Section 3 of the Punjab Good Conduct Prisoners(Temporary Release) Act, 1962 (hereinafter referred to as 'the Act') to enable him to meet his family members. In our opinion, the release of a convict on parole is a wing of reformatory process. Section 3 of the Act has been enacted as a reformatory measure with an object to enable the prisoner to have family association or to perform certain family obligations and rituals. Until and unless sufficient material is available with the authorities giving solid reasons for declining the temporary release of a convict on parole, this benefit should not be declined to him. In the instant case, no such strong material or basis has been relied upon by the respondents while rejecting the prayer of the petitioner for releasing him on parole for four weeks to meet his family members.”

A perusal of the above-said judgment would show that it has been observed that a convict can be temporarily released on parole under Clause (d) of sub-section (1) of Section 3 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 to enable him to meet his family



members and the release of a convict on parole is a wing of reformatory process.”

10. A Division Bench of this court in ***Gursahib Singh Vs. State of Punjab and others***” passed in ***CRWP-867-2021***, decided on 31.05.2022 has held as under:-

“The present petition has been filed for release of the petitioner on parole raising challenge to the order dated 15.05.2020 (Annexure P-2) wherein, the Senior Superintendent of Police, Tarn Taran gave an adverse recommendation regarding the release of the petitioner on account of the fact that he is habitual of consuming intoxicants and while on parole, he could cause threat to peace and may indulge in selling intoxicating substances and may be declared as a proclaimed offender. Keeping in view the adverse recommendation, the rejection order dated 19.05.2020 has been passed by the Deputy Commissioner, Tarn Taran (Annexure R-2/T).

The reasoning given in the said order is that in view of the adverse recommendation that the convict is a drug addict and if released on parole, he could harm peace and there is apprehension that he would again be involved in drug trafficking and there are chances of absconding also, the rejection was there.

We are of the considered opinion that the order is de hors the provisions of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (in short 'the 1962 Act') and has lost sight of the purpose for which the said Act has been promulgated. A perusal of the custody certificate dated 30.05.2022, which has been filed today by the State and which is taken on record, would go on to show that the petitioner has undergone actual period of 2 years, 11 months and 16 days by now on account of the conviction which has been recorded of 12 years under Section 18 of the Narcotic Drugs and Psychotropic5 of 8 Substances Act, 1985 (in short 'the NDPS Act') on 18.01.2020. It is a matter of record that he has also been convicted for a period of 4 years and 6 months in FIR No. 106 under Section 21, 61 and 85 of the NDPS Act and also was involved in FIR No. 22 dated 03.02.2004 under Section 61 of the Punjab Excise Act, 1914. The custody certificate would also go on to show that he has not been granted the benefit of parole



since the date of his conviction. A period of more than 2 years has gone by.

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The ground that there is an apprehension that he would be again involved and that he may abscond are mere imaginations of the authorities as such. It is the duty of the State itself that the convict should not indulge in such activities and preventive measures should be taken and on account of such apprehensions, the benefit of the release cannot be denied. The earlier involvement was of the year 2005 and much water has flown down after that. He is already suffered imprisonment for 4-1/2 years and, therefore, for the same, he cannot be penalized twice by denying him the benefit of parole.

Accordingly, we are of the considered opinion that the reasoning given in the impugned order 15.05.2020 (Annexure P-2) and the subsequent order passed by the Deputy Commissioner 19.05.2020 (Annexure R-2/T) are not justified and do not stand reason. They are accordingly quashed and a writ of mandamus is issued to release the petitioner on parole for a period of 4 weeks. He shall surrender back to the Jail Authorities on the expiry of the said period.

The petition stands disposed off accordingly."

11. On the same aspect is also the judgment of Hon'ble Division Bench of this Court in ***CRWP No. 9165 of 2022, Amarjit Singh @ Kala @ Mama vs. State of Punjab and others*** decided on 23.01.2023; *CRWP No. 10075 of 2022 decided on 19.01.2023 titled as Shiv Kumar @ Shiva vs. State of U.T. Chandigarh & others.*

12. Considering all these facts and circumstances in the light of the law settled in the aforesaid judgments it is observed that in the present case admittedly the petitioner has been in custody for more than 2 years and 5 months and has not availed the concession of parole even for once, the case for temporary release on parole has been declined by the competent authority vide impugned order dated 22.07.2024 (Annexure P-3) the learned Deputy Commissioner/District Magistrate Mansa (respondent No.-2) only on the



basis of report submitted by Senior Superintendent of Police, Mansa wherein apprehension has been raised that the petitioner if granted concession of bail will indulge in smuggling of narcotic activity, besides there is apprehension of breach of peace and security in the area. Apart from the bald apprehension raised by the Senior Superintendent of Police, Mansa there is nothing on record on the basis of which the authority came to such conclusion. It would be apt to say that such apprehension raised by the authorities are nothing but mere imagination. In the absence of any plausible ground to form basis for such apprehension of the authority concerned, it would be nothing but a mechanical order passed on the basis of the mere conjectures and surmises the concession of parole is regulated by the statute and the authorities nominated there under are expected to perform duty to achieve the objective of the statute. It is not expected from them to act arbitrarily, capriciously and without due application of mind.

13. Thus, considering all the above facts and circumstances, it is observed that by way of present petition, the petitioner has sought temporary release for a period of 8 weeks for the purpose of meeting his family members and he has been in custody for more than 2 years and 5 months without taking any concession of parole during the period, therefore, in this backdrop passing of the impugned order by the competent authority dated 22.07.2024 (Annexure P-3) the learned Deputy Commissioner, Mansa (respondent No.-2) is nothing but an order passed in a mechanical manner without there being any sustainable reasons based purely on surmises and conjectures, order being not sustainable in the eyes of law and is hereby set aside.

14. As a consequent, the petitioner is ordered to be released on parole for a period of 8 weeks from the date of release; subject to her furnishing personal/surety bonds to the satisfaction of the concerned District Magistrate and in addition, concerned District Magistrate, may impose such conditions as may be necessary to secure the presence of the petitioner in jail after the parole is over and to ensure that the temporary release is not misused.

15. Petition, accordingly is disposed of.

(SANJIV BERRY)
JUDGE

09.04.2025

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | Yes |