



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

CRWP-5031-2025

Date of decision: 15.05.2025

Raj Kumar alias Raju

....Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**

**Present:** Mr. Nirmaljeet Singh Sidhu, Advocate  
for the petitioner.

Mr. Subhash Godara, Addl.A.G., Punjab.

**HARPREET SINGH BRAR, J. (ORAL)**

1. Petitioner has filed this petition under Articles 226/227 of Constitution of India for issuance of directions to respondents for grant of parole for a period of 08 weeks to the petitioner and for quashing the impugned order dated 09.04.2025 (Annexure P-2) passed by respondent No. 2, vide which, the case of the petitioner for grant of parole has been declined.

2. The brief facts of the case are that the petitioner has been convicted and sentenced in case bearing FIR No. 247 dated 12.10.2022 at Police Station Canal Colony, District Bathinda, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') to undergo rigorous imprisonment for 10 years and to pay fine of Rs. 1,00,000/-, in default of payment of fine to further undergo rigorous imprisonment for one year. Petitioner filed criminal appeal bearing No. CRA-S-4120 of 2024 against the aforesaid judgment of conviction and order of sentence which stands admitted vide order dated 18.12.2024.(Annexure P-1). Afterwards, petitioner applied for eight weeks parole to District Magistrate,



Bathinda (Respondent no.2) to meet his wife as she is suffering from various ailments including diabetets etc. Subsequently, District Magistrate, Bathinda forwarded his case to Senior Superintendent of Police, Bathinda (Respondent no.3) who did not make recommendation of parole to petitioner. Accordingly, respondent No. 2 District Magistrate, Bathinda rejected the application seeking eight weeks parole vide order dated 09.04.2025, Annexure P-2 by stating that petitioner is involved in four other cases, therefore he has a strong history of indulging in narcotic substances and if the parole is granted to him, there is apprehension of breach of state security and maintenance of public order.

3. Learned counsel for petitioner argued that the impugned order dated 09.04.2025 (Annexure P-2) has been passed in a mechanical manner on the ground of earlier registered cases against petitioner. He further contends that mere conviction of petitioner in multiple cases cannot be a ground to reject parole and there is no legislative mandate to reject the case of a convict for temporary release on the apprehension that in case, the petitioner is released, he can indulge in smuggling of intoxicating substances. He submits that the petitioner was granted regular bail in another case vide order dated 18.01.2024 (Annexure P-3) and during that period, the act and conduct of petitioner remained peaceful and law abiding. Learned counsel further submits that case of the petitioner is not hardcore prisoner as defined under section 2(aa) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (hereinafter to be referred as 'the Act, 1962'). Therefore, it is submitted that impugned order dated 09.04.2025 may kindly be set aside and petitioner may be released on parole for eight weeks by imposing suitable conditions.

4. Per contra, learned State counsel opposes the prayer of the petitioner for grant of parole, by alleging that District Magistrate, Bathinda has



declined application filed by petitioner seeking parole of eight weeks by passing detailed order dated 09.04.2025, based on report filed by Senior Superintendent of Police, Bathinda. Apart from present case, petitioner is involved in three other FIRs registered under the provisions of NDPS Act and One FIR under Section 498A, 406, 34 of IPC. As such, he is not entitled to the relief claimed. Otherwise, he could indulge in selling narcotic drugs and can make breach of state security and maintenance of public order.

5. Having heard learned counsel for the parties and upon perusal of the record, this Court deems it appropriate to firstly examine the relevant statutory provision under Section 3 of the *Punjab Good Conduct Prisoners (Temporary Release) Act, 1962*. It reads as follows:

***“3. Temporary release of prisoners on certain grounds:- (1)***  
*The State Government may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2) any prisoner if the State Government is satisfied that -*

*[(a) a member of the prisoner's family has died; or*

*(aa) husband or wife or son or daughter or father or mother or brother or sister or grand-father or grand-mother or grandson or grand-daughter or father-in-law or mother-in-law of the prisoner is seriously ill; or]*

*(b) the marriage of the prisoner's son or daughter is to be celebrated; or*

*(c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation [on his land or any other land cultivated by him] and no friend of the prisoner or a member of the prisoner's family is prepared to help him in this behalf in his absence;*

*[(cc) a lady prisoner is pregnant and is likely to deliver a child; or]*

*(d) it is desirable to do so for any other sufficient cause.*

***[Explanation.*** *The expression "sufficient cause" includes -*

*(1) serious damage to life property of the member of the family cause by any natural calamity; or*



*(2) critical condition of any member of the family on account of accident; or*

*(3) delivery of child by the wife of the prisoner.]*

The petitioner's case falls under Section 3(1)(aa) of the *Punjab Good Conduct Prisoners (Temporary Release) Act, 1962*, which allows temporary release to meet his family member. This provision reflects the reformatory and humanitarian object of the statute, allowing temporary release to maintain familial ties.

6. It is pertinent to refer to the judgments delivered by the Division Bench of this Court in CRWP-5395-2023 decided on 06.05.2024 titled as **Kulwinder Singh @ Taina Vs. State of Punjab and Others and Jassa Singh @ Jassa Vs. State of Punjab and Others, 2016(5) RCR (Criminal) 522**, wherein it has been concluded that involvement of the convict in other cases cannot be a sole ground for denying him the concession of temporary release. Relevant paragraph of judgment **Kulwinder Singh @ Taina (supra)** is reproduced hereinbelow:

*"10. Objectives of parole are twofold 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. Gainful reference at this stage can be made to the judgment of Coordinate Bench in "**Bansi Lal versus State of Punjab & Others**", 2016(4) R.C.R. (Criminal) 1017, where it was observed as under :-*

*"11. .... During incarceration of a prisoner in jail after his conviction he is entitled for temporary release on parole which though is a concession and not a right. However, in order to reform a prisoner a periodic temporary release on parole for short duration is necessary. This is a welfare measure in the interest of a prisoner .....*

xx xx xx xx



15. The term 'Security of the State' out of the expressions of 'law and order', and 'public order' is considered more grave. It 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 concerned District Magistrates and competent authorities under the 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 concerned District Magistrate and/or 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."

11. A Division Bench of this Court in the case of **Manga @ Manga Singh Versus State of Punjab and others, 2020(4) R.C.R. (Criminal) 133** specifically held that merely because petitioner was involved in four other cases cannot be a valid ground by itself to deny release on parole. 12. 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 filled 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, rejection of parole on unsubstantiated apprehension of disturbing the State security would not be sufficient to invoke Section 6(2) of the Act. It transpires that the petitioner as and when released on regular bail in another case, he has not misused the concession of bail granted to him and there is nothing on record to suggest that after bail he has indulged in any criminal activity or there is no specific instance given that how the release of the petitioner would create apprehension of threat to society. Similarly, this court in **Balwant v. State of Haryana. 2019(3) RCR(Criminal) 740** held that mere presumption that if a convict is released on parole, then he might commit crime is not sufficient ground for rejection of parole, and in **Shehjad v. State of Haryana, 2017(3) Law Herald 2667** held that parole cannot be denied to petitioner only for the solitary reason that he is a habitual offender. Hence, Parole cannot be denied merely on the basis of involvement in other cases unless there is a specific threat perception supported by material facts. As Parole is a part of correctional and reformatory strategy and denial without just reason amounts to infringement of fundamental rights.

8. In the present case, the impugned order dated 09.04.2025 reveals that the parole application was rejected solely on the basis of the pendency of other cases, without assessing whether the petitioner satisfies the requirements under Section 3(1)(aa) of the Act. No specific material indicating that the petitioner's release would endanger public order or State security has been placed on record. The order is thus not sustainable in the eyes of law.



9. Accordingly, the impugned order dated 09.04.2025 (Annexure P-2) passed by respondent No. 2 is hereby set aside and the petitioner is ordered to be released on parole for a period of 8 weeks on his furnishing bail bonds/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate and he shall surrender on the last date of parole at 5:00 PM at the jail gate.

(HARPREET SINGH BRAR)  
JUDGE

15.05.2025  
Neha

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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |