

CRWP 5469 of 2025 (O&M)

2025:PHHC:179610-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRWP 5469 of 2025 (O&M)
Date of Decision:15.12.2025

Amit Sooden @ Amit

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT
HON'BLE MR. JUSTICE H.S.GREWAL

Present : Mr. Vipin Mahajan, Sr. Advocate with
Ms. Tejinder Kaur, Advocate for the petitioner.

Mr. Bhanu Pratap Singh, Addl. A.G., Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. By filling the instant petition, the petitioner has challenged the impugned order dated 06.05.2025 (Annexure P-5) passed by the Superintendent, Sub Jail, Pathankot, whereby, the prayer of the petitioner to release him on 08 weeks' parole has been rejected.

2. Learned senior counsel appearing on behalf of the petitioner has vehemently argued that the petitioner is resident of Jammu in the State of Jammu and Kashmir. The petitioner was tried by the Special Court Pathankot in case FIR No. 88 dated 28.06.2021

under Sections 21 and 29 of the NDPS Act, Police Station Sadar Pathankot, District Pathankot for having 5 kilograms and 765 grams of cocaine in his conscious possession. Accordingly, he was convicted for the commission of the offence punishable under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 as recovery from him fell within the category of "commercial quantity" and was sentenced to undergo rigorous imprisonment for a period of 12 years and to pay a fine of Rs. 1.50 lacs. The appeal filed by the petitioner has been admitted for hearing, by this Court and is still pending for adjudication. Learned senior counsel further submits that the petitioner had maintained good conduct during his entire period as undertrial and never committed any jail offence. Admittedly, he applied to respondent No.4 for grant of parole to him, who in turn called for a report from the Senior Superintendent of Police, Jammu and Sub-Divisional Magistrate, RS Pura, Jammu. Vide letter (Annexure P-4), the SDM, RS Pura submitted a report that there was no objection to the neighbours of the convicted prisoner, if he is ordered to be released on parole. However, by completely ignoring the recommendations of the field officials, the Superintendent, Sub Jail Pathankot refused to accept the prayer of the petitioner and passed the impugned order (Annexure P-5) illegally. Learned senior counsel further submits that the petitioner is entitled to be released on parole to meet his family members and to take care of his house under Section 3 of the Punjab Good Conduct Prisoners (Temporary

Release) Act, 1962. Even, the respondent No.4 has wrongly rejected the prayer of the petitioner on the ground that the petitioner/convict had a history of involvement in drug related activities. Rather, the petitioner was never involved in any other case except the present case, in which his conviction has been ordered. Consequently, the petitioner has been wrongly denied the benefit of parole, which is available to the prisoner and a humanistic approach should have been adopted by the respondent No.4 in the present case.

3. On the other hand, a detailed reply has been filed by the Deputy Superintendent of Police (Rural), Pathankot, on behalf of the State of Punjab. Learned State counsel has vehemently opposed the prayer made by the petitioner on the ground that the petitioner and his co-accused were found carrying 5 kilograms and 765 grams of cocaine and he was part of a big racket. Still further, in the past also, the present petitioner was involved in drug related activities and was in touch with several other persons, who were involved in drug trade. Consequently, in case the petitioner is ordered to be released on parole, he may again get involved in similar activities. Learned State counsel also referred to the report dated 05.02.2025 prepared by the Senior Superintendent of Police, Jammu, in which, the following observations were made:-

“In this regard, report has been sought from SP Hors. Jammu which reveals a significant number of youth across UT J&K are getting addicted to drugs and youth

of Miran Sahib area are also increasingly getting addicted to drugs. The past practice of selling drugs by the convicted prisoner cannot be ruled out, if he is released on parole. As such, it is recommended that the convicted prisoner may not be released on parole”.

4. The Hon'ble Supreme Court of India in the matter of ***Asfaq Vs Rajasthan and others (2017) 15 SCC 55*** had considered the nature, object, purpose and parameters for grant of parole subject to which the parole can be granted, by making the following observations:-

“18. 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.

19. Having noted the aforesaid public purpose in granting parole or furlough, ingrained in the reformation theory of sentencing, other competing public interest has also to be kept in mind while deciding as to

whether in a particular case parole or furlough is to be granted or not. This public interest also demands that those who are habitual offenders and may have the tendency to commit the crime again after their release on parole or have the tendency to become threat to the law and order of the society, should not be released on parole. This aspect takes care of other objectives of sentencing, namely, deterrence and prevention. This side of the coin is the experience that great number of crimes are committed by the offenders who have been put back in the street after conviction. Therefore, while deciding as to whether a particular prisoner deserves to be released on parole or not, the aforesaid aspects have also to be kept in mind. To put it tersely, the authorities are supposed to address the question as to whether the convict is such a person who has the tendency to commit such a crime or he is showing tendency to reform himself to become a good citizen.

20. Thus, not all people in prison are appropriate for grant of furlough or parole. Obviously, society must isolate those who show patterns of preying upon victims. Yet administrators ought to encourage those offenders who demonstrate a commitment to reconcile with society and whose behaviour shows that aspire to live as law abiding citizens. Thus, parole program should be used as a tool to shape such adjustments.

21. To sum up, in introducing penal reforms, the State that runs the administration on behalf of the society and for the benefit of the society at large cannot be unmindful of safeguarding the legitimate rights of the citizens in regard to their security in the matters of life

and liberty. It is for this reason that in introducing such reforms, the authorities cannot be oblivious of the obligation to the society to render it immune from those who are prone to criminal tendencies and have proved their susceptibility to indulge in criminal activities by being found guilty (by a Court) of having perpetrated a criminal act. One of the discernible purposes of imposing the penalty of imprisonment is to render the society immune from the criminal for a specified period. It is, therefore, understandable that while meting out humane treatment to the convicts, care has to be taken to ensure that kindness to the convicts does not result in cruelty to the society. Naturally enough, the authorities would be anxious to ensure that the convict who is released on furlough does not seize the opportunity to commit another crime when he is at large for the time-being under the furlough leave granted to him by way of a measure of penal reform.

22. Another vital aspect that needs to be discussed is as to whether there can be any presumption that a person who is convicted of serious or heinous crime is to be, ipso facto, treated as a hardened criminal. Hardened criminal would be a person for whom it has become a habit or way of life and such a person would necessarily tend to commit crimes again and again. Obviously, if a person has committed a serious offence for which he is convicted, but at the same time it is also found that it is the only crime he has committed, he cannot be categorized as a hardened criminal. In his case consideration should be as to whether he is showing the signs to reform himself and become a good citizen or

there are circumstances which would indicate that he has a tendency to commit the crime again or that he would be a threat to the society. Mere nature of the offence committed by him should not be a factor to deny the parole outrightly. Wherever a person convicted has suffered incarceration for a long time, he can be granted temporary parole, irrespective of the nature of offence for which he was sentenced. We may hasten to put a rider here, viz. in those cases where a person has been convicted for committing a serious offence, the competent authority, while examining such cases, can be well advised to have stricter standards in mind while judging their cases on the parameters of good conduct, habitual offender or while judging whether he could be considered highly dangerous or prejudicial to the public peace and tranquility etc.

*23. There can be no cavil in saying that a society that believes in the worth of the individuals can have the quality of its belief judged, at least in part, by the quality of its prisons and services and recourse made available to the prisoners. Being in a civilized society organized with law and a system as such, it is essential to ensure for every citizen a reasonably dignified life. If a person commits any crime, it does not mean that by committing a crime, he ceases to be a human being and that he can be deprived of those aspects of life which constitute human dignity. For a prisoner all fundamental rights are an enforceable reality, though restricted by the fact of imprisonment. {See - **Sunil Batra (II) v. State (UT of Delhi) (1980) 3 SCC 488, Maneka Gandhi v. Union of India (1978) 1 SCC 248 and Charles Sobraj v.***

Superintendent Central Jail, Tihar, New Delhi, (1978) 4 SCC 104.

24. It is also to be kept in mind that by the time an application for parole is moved by a prisoner, he would have spent some time in the jail. During this period, various reformatory methods must have been applied. We can take judicial note of this fact, having regard to such reformation facilities available in modern jails. One would know by this time as to whether there is a habit of relapsing into crime in spite of having administered correctional treatment. This habit known as "recidivism" reflects the fact that the correctional therapy has not brought in the mind of the criminal. It also shows that criminal is hardcore who is beyond correctional therapy. If the correctional therapy has not made in itself, in a particular case, such a case can be rejected on the aforesaid ground i.e. on its merits."

5. From the above referred preposition of law, there is no doubt that the Courts should adopt a humanistic approach while granting the concession of parole to the prisoners, so that they may solve their personal and family problems and are able to maintain links with the society. However, this Court also cannot ignore the fact that in the present case, the petitioner along with other accused has been found carrying 5 kilograms and 765 grams of cocaine in their conscious possession. Apart from that, it is also evident from the report prepared by the Senior Superintendent of Police, Jammu that in the past also, the petitioner was found involved in drug related activities, even though, a FIR in this regard was not registered.

However, the recovery of cocaine in the instant case itself is a very serious charge and clearly shows that the present petitioner has connections with drug smugglers as the cocaine is not easily available to petty drug peddlers. Apart from that this Court finds sufficient force in the submissions made by the learned State counsel that the petitioner may also get involved in drug related activities, if ordered to be released on parole. Consequently, we find no ground to allow the instant petition and the same is, accordingly, ordered to be dismissed.

6. All pending applications, if any, are disposed off, accordingly.

(N.S.SHEKHAWAT)
JUDGE

(H.S.GREWAL)
JUDGE

15.12.2025
amit rana

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