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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Decided on: 01.03.2025

Anil KumarPetitioner
Versus

State Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

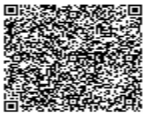
Present: Mr. J.S. Sekhon, Advocate for the petitioner.

Mr. Jasdeep Singh, DAG, Punjab.

SANJAY VASHISTH, J.

1. Present petition has been filed by Anil Kumar, for directing the respondents to release him on parole for eight weeks, in case FIR No. 87 dated 30.04.2014, under Sections 21,22,29 of NDPS Act and Section 15 of Indian Medical Council Act, 1956, registered at Police Station city Rupnagar.
2. Learned counsel for the petitioner submits that petitioner is a convict in two cases, details of which are as under:

Sr. No.	FIR details	Status
1	FIR No.87 dated 30.04.2014, registered under Sections 21, 22,29 of NDPS Act and Section 15 of Indian Medical Council Act, 1956 registered at Police Station City Rupnagar	Convicted for ten years by learned Judge Special Court, Rupnagar vide order dated 29.11.2022. Now, appeal i.e. CRA-S-20-2023 is pending before this Hon'ble Court.
2	FIR No. 121 dated 06.12.2018, registered under Sections 21, 22, 61 of NDPS, Act, at Police Station Sadar Rupnagar.	Convicted for fifteen years by learned Judge Special Court, Rupnagar, vide order dated 21.02.2024. Now, appeal i.e. CRA-D-958-2024 is pending before this Hon'ble Court.



3. Learned counsel for the petitioner submits that after conviction, petitioner has never applied for parole, except once, which has been declined by respondents vide order dated 25.07.2024. Counsel further submits that the reason for disallowing the request of the petitioner is that he is accused/convict in total four criminal cases and if he is released on parole, he may indulge himself in drug smuggling. Counsel also submits that out of total four cases, in one case petitioner was released from jail because the sentence part had already been undergone and in other case, he had been acquitted. Details of all such four cases alongwith their status are reproduced herebelow in a tabular form:

Sr. No.	Details of case	Remarks
1.	FIR No.121 dated 06.12.2018, under Sections 21, 22, 61, 85 of NDPS Act, Police Station Sadar Rupnagar	In the case, Convict Anil Kumar s/o Ram Sarup was convicted on 21.02.2024 by learned Court of Sh. Sham Lal, Additional Sessions Judge, Rupnagar and was sentenced as under: To undergo RI for 15 years and to pay a fine of Rs.2,00,000/-. In default of payment of fine to further undergo imprisonment for 02 years.
2.	FIR No.184 dated 09.09.2021, under Section 229-A IPC, registered at Police Station City Rupnagar	The convict released from jail on 17.01.2022, as he has already undergone the period of sentence during the under-trial period
3.	FIR No.68 dated 06.09.2021, under Section 174-A, IPC, Police Station City Rupnagar	The convict released from jail on 16.05.2023, as he has already undergone the period of sentence during his under-trial period.
4.	FIR No.05 dated 01.02.2019, under Sections 21,22,61,85 of NDPS Act, registered at Police Station Sadar Morinda.	On 04.01.2024, the above-said convict was acquitted from this case as per the order of the learned Court of Sh. Mohit Bansal, Additional Sessions Judge, Rupnagar.

5. Learned counsel for the petitioner also submits that during the pendency of the present petition a fact was brought to the notice of this Court that mother of the petitioner is all alone and bedridden and is



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suffering from physical ailments. Thereupon, this Court directed the State to file an affidavit after verifying the facts regarding the health condition of the petitioner's mother and how many other members are there in the family to look after the ailing mother.

6. In response thereto, reply/affidavit dated 26.01.2025 has been filed alongwith a letter No.103 PBP dated 21.01.2025 by District Magistrate Karnal to Superintendent District Jail, Rupnagar. As per said communication, mother of the petitioner is found to be an elderly woman aged 75 years, who is ill, and she is getting treatment at Simms Hospital and Advanced Heart Care and Surgical Center, Sector 32, Near Shanti Mandir, Sushant City, Kurukshetra. It was mentioned that Smt. Lakshmi Devi (mother of the petitioner) has heart and lung disease and needs surgery. Presently she is being looked after by the wife of brother of Anil Kumar. Thus, submit that the mother of the petitioner, being ill and bedridden, is in need of her another son, i.e. present petitioner and his release on parole may give a chance to the petitioner to do the needful for her mother.

7. Learned counsel for the petitioner has placed reliance upon the judgment passed by Division Bench of this Court, titled as, '**Kulwinder Singh alias Taina Vs. State of Punjab and others**' 2024 NCPHHC 62430; Law Finder Doc Id #2592372, and submits that merely registration of number of cases and raising doubt of his getting involved that too without any basis cannot be made the ground for denying the relief to a convict for releasing him on parole. Learned counsel for the petitioner also relies upon the judgment of this Court, titled as, '**Ajaib**



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Khan Vs. State of Punjab and other,’ 2019 SCC online P&H 3133, and submits that even this Court has considered the right of parole in case where the accused was categorised as **‘B’ category Gangster**. By citing judgment of this Court, titled as, *‘Sukhjinder Singh Sukhi Vs. State of Punjab and others’*, (CRWP-10281-2024; Date of Decision:23.10.2024), Counsel for the petitioner submits that as an instance in *Sukhjinder Singh’s case (supra)*, the convict was an accused and total nine cases were registered against him, but this Court considered that parole is a valuable right and is a significant step towards reformation of the accused. It is imperative to consider that a convict is also required to maintain his contact with the society, which would facilitate in his reformation as a responsible citizen at the time of his release after completion of sentence. Thus, prays for quashing of the order dated 25.07.2024 passed by Additional DGP, Prison, Punjab and releasing the petitioner on parole for a period of eight weeks.

8. While opposing the prayer of the petitioner, learned State counsel submits that petitioner seems to be a habitual offender and in two of the cases under NDPS Act, which is crime against society he has already been held guilty, therefore, his release may result against the interest of the society and also against himself, because he may again get involved in the similar activity, thus, submits that the present petition be dismissed.

9. I have considered the submissions addressed by both sides. Undisputedly, facts are that out of total four cases, one case is under Section 174-A IPC, in which the sentence period has been undergone.



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Another case i.e. FIR No. 05 dated 01.02.2019 P.S. Sadar Morinda registered under Section 21 and 22 of the NDPS Act, petitioner has already earned acquittal and qua the other two cases under the Provisions of NDPS Act, though he has been convicted but said finding is not verified because his appeals before this Court are pending.

10. ***In Kulwinder Singh's case (supra)***, Division Bench of this court held that by releasing on parole, every prisoner develops a sense and hope of life with a view to rehabilitate himself in the society and same is the paramount object of granting and releasing of the convict on parole. Moreover, maintaining continuity together with his family, friends and community would also help the convict to come out of mental agony and distress on account of continuing imprisonment within four walls of the jail.

Relevant observations made in paragraph No.9 and 10 of the said judgment are reproduced herebelow:

9. It is settled position that normally temporary release on parole or furlough, as may be, is to be granted but can be declined, in case releasing authority is of the view that such release would be dangerous to security of the State or maintenance of public order. Section 6(2) of the Act provides for the same. Section 6 of the Act reads as under :-

“6. Cases where consultation with District Magistrate not necessary or where prisoners are not to be released.-

Notwithstanding anything contained in sections 3 and 4

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(1) it shall not necessary to consult the District Magistrate where the State Government is satisfied that the prisoner maintained good conduct during the period of his earlier release under any of the aforesaid sections; and

(2) no prisoner shall be entitled to be released under this Act, if on the report of the District Magistrate, where consultation with him is necessary, the State Government or an officer authorised by it in this behalf is satisfied that his release is likely to endanger the security of the State or maintenance of public order.”



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

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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 Act while deciding to recommend or not to recommend the temporary release of a prisoner on parole and/or



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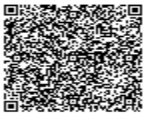
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passing orders for temporary release by the competent authorities under the Act. The exercise is not to be lightly conducted and the concerned District Magistrate and/or the competent authorities are to apply their mind on the basis of inputs received by them for recommending or passing an order as the case may be for temporary release of prisoners on parole.”

In ***Ajaib Khan’s case (supra)*** need of parole was realised by this Court in a case of a convict, who was marked and identified as ‘**B**’ ***category Gangster*** despite being involved in several cases.

In the cited case as well as in the case in hand it was/is not the stand of the respondent/Authorities that the conduct of the petitioner inside jail is not satisfactory and good. In ***Sukhjinder Singh’s case (supra)*** Division Bench of this Court, considered the need of release of the convict on parole for a period of six weeks and as informed by counsel for the petitioner that convict in that case was involved in nine criminal cases, thus, submits that after considering the facts of the present case and paramount considerations of the legal provisions i.e. Section 3 of The Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, which are dealt with by the Hon’ble Division Benches of this Court number of times.

11. This Court has also noticed the affidavit dated 26.01.2025, wherein the report of learned District Magistrate, Karnal is appended and same has been considered in the abovementioned part of the present order, I deem it appropriate to quash the order dated 25.07.2024 passed by Additional DGP, Prison, Punjab and direct that the petitioner be released on parole for a period of six weeks from the date of his release to the satisfaction of learned District Magistrate concerned or any other authority concerned as per Rules. It is further directed that while



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releasing the petitioner on parole the conditions would be imposed as required in the jail manual towards the ends of securing the presence of the petitioner in jail after the completion of the parole period and also for the reason that the concession of temporary release may not be misused by the convict. Accordingly, petition is allowed.

(SANJAY VASHISTH)
JUDGE

March 01, 2025
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Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**