



S. No.249

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

**CRWP No.10772 of 2025
Date of Decision:10.11.2025**

Shyam Sunder alias Sunder

.....Petitioner

Vs.

State of UT, Chandigarh and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present:- Mr. Ujwal Anand, Advocate for the petitioner.

Mr. Sumit Jain, Addl. PP, U.T., Chandigarh.

Yashvir Singh Rathor, J. (Oral)

1. The instant petition has been filed seeking quashing of impugned order dated 12.09.2025 (Annexure P.2) and for directing the respondents to grant parole to the petitioner – Shyam Sunder alias Sunder, to meet his family members.

2. Brief facts of the case are that the petitioner was convicted under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 arising out of FIR No.88 dated 15.04.2019 registered at Police Station, Sector 36, Chandigarh and has been sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.1 lakhs and in default of payment of fine, to further undergo rigorous imprisonment for eight months. He is presently confined in jail for the last more than one year after his conviction. He has not committed any jail offence during his custody. He applied for parole for 28 days to meet his family members but the authorities have rejected the same on the apprehension that in case he is released on parole, his release is likely to endanger the security of the State or the



maintenance of public order. However, the application for parole has been rejected in an arbitrary and illegal manner on mere apprehension without there being any material to substantiate any such remarks. It has been prayed that petitioner may be granted concession of parole for 28 days to meet his family members.

3. Reply on behalf of respondents No.1 and 2 has been filed in Court. The same is taken on record. Prayer made by the petitioner has been opposed on the basis of report of the SSP, Chandigarh

4. I have heard learned counsel for the parties and gone through the material placed on record.

5. The temporary release of prisoners for good conduct is governed by the Punjab Good Conduct Prisoners (Temporary) Release Act, 1962 (**hereinafter referred to as “1962 Act”**). The only embargo upon the release of the prisoner is laid down in Section 6 of the 1962 Act, which is reproduced 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,--*

(i) it shall not be 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

(ii) 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".

6. Section 6 of 1962 Act, came up for consideration before a Division Bench of this Court in 2016(5) RCR (Criminal) 522 – Jassa Singh @ Jassa Vs. State of Punjab. After noticing the provision, the Division Bench held as under:-

7. In terms of the above Section 6 (ii) of the Act, a prisoner is not entitled to be released under the 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. Temporary release of a prisoner on parole or furlough as the case may be can be denied if his release is likely to endanger the security of the State or the maintenance of public order. For reaching satisfaction of danger to the security of the State or the maintenance of public order, there has to be material before the District Magistrate, for consideration as to whether the release of a prisoner would be a threat to either or both of them. Parole cannot be denied and in fact is not liable to be denied on mere generalization by recording that generally it has been seen that prisoners on release generally engage themselves in smuggling activities causing danger to security of the country and contraband are again recovered from them. This can be ensured by asking the petitioner/prisoner to execute necessary bonds that while on parole



he would maintain good behaviour and will not indulge in any smuggling activities, besides, asking him to furnish heavy surety.”

7. The expression ‘law and order’ and ‘public order’ came up for interpretation before a Division Bench of this Court in 2016 (4) RCR (Criminal) 1017 - Bansi Lal Versus State of Punjab and others, wherein it was held as under:-

“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.”

8. Another Division Bench of this Court in 2017(3) RCR (Criminal) 340 - Ram Chander Vs. State of Punjab and others held that the likelihood of committing a crime while on parole would not be a sufficient ground to decline temporary release on parole as mere likelihood of committing crime is not to be taken as an apprehension of a threat to the security of the State or maintenance of public order.

9. In **Simrandeep Singh Vs. State of Punjab [CWP No.2261 of 2018]**, **decided on 17.04.2018**, after review of the case law, this Court held that there has to be material with the respondents for entertaining the apprehension that if the convict is released on parole, he will cause danger to the public peace.

10. In CWP No.19340 of 2019 titled “**Manjit Singh @ Laddu Vs. State of Punjab and others**”, decided on **02.09.2019**, after examining the cases in which the petitioner was involved, this Court held that apprehension of the State that the convict may indulge in sale of intoxicant substance is hypothetical and to allay the apprehension, adequate conditions can be imposed upon him and his conduct can be kept under watch in case parole is granted.

11. Now coming to the case in hand, petitioner has applied for parole for 28 days on the ground that he wants to meet his family members. The application has been rejected on the ground that his release is likely to endanger the security of the State or the maintenance of the public order. However, there is nothing on the record to show that conduct of the petitioner in jail was not good. He has applied for parole for the first time and it is not understandable as to how the



authorities/ official respondents have come to the conclusion that his release will endanger the security of the State or the maintenance of the public order. No material has been placed on record by respondents to support such apprehension and merely on the basis of apprehension, benefit of parole cannot be denied. The claim of the petitioner for release on parole for 28 days to meet his family members will fall within the ambit of “sufficient cause” as mentioned in Section 3(1)(d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 and his request is thus required to be accepted.

12. As a consequence of the above discussion, the writ petition is allowed and the impugned order dated 12.09.2025 (Annexure P-2) is hereby quashed. The petitioner is ordered to be released on parole for a period of 28 days from the date of release to the satisfaction of the District Magistrate concerned, who is further directed to impose such conditions as may be necessary to secure the presence of the petitioner in jail after the parole period is over and to ensure that the temporary release is not misused and by securing the bond of mandatory good conduct with a clear stipulation that in case the petitioner commits any offence during his period of temporary release, his release warrants would be cancelled as provided in Rule 4 of Punjab Good Conduct Prisoners' (Temporary Release) Rules, 1963.

(Yashvir Singh Rathor)
Judge

November 10, 2025
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Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No