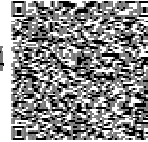


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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

242

CRWP-11824-2024 (O&M)
Date of decision: 04.02.2025

Mahesh Kumar @ Ballu**...Petitioner**

Versus

State of Punjab and others**...Respondents****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Rakesh Kumar Lathwal, Advocate
for the petitioner.

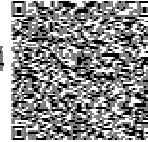
Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, filed under Article 226 of the Constitution of India, the petitioner is seeking issuance of a writ in the nature of Certiorari for setting aside the order dated 28.10.2024 (Annexure P-2), passed by respondent No. 2-District Magistrate, Jhajjar, whereby the application moved by the petitioner for grant of parole for a period of 08 weeks has been rejected.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the petitioner has been convicted in case arising out of FIR No. 133 dated 04.08.2013, registered under Section 22 of the NDPS Act, 1985 at Police Station Shambhu, District Patiala and is undergoing rigorous imprisonment for a period of 10 years. He has filed an appeal against the judgment of conviction dated 31.08.2023 and order on quantum of sentence dated 05.09.2023 before this Court, which is pending. He has filed an

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application for grant of parole for a period of 08 weeks but the same has been rejected by respondent No. 2.

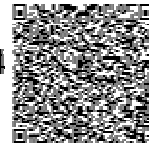
3. It is submitted by learned counsel for the petitioner that he is a peace loving and law abiding citizen but had been unfortunately implicated in the aforesaid FIR and had been convicted and sentenced for a period of ten years. He is undergoing his sentence in District Jail at Patiala and there is no adverse entry against him either during trial or after conviction. The petitioner had moved aforesaid application for grant of parole through the Jail Superintendent. However, respondent No. 2-District Magistrate, Jhajjar has rejected his application only on the ground that the Commissioner of Police, Jhajjar has not recommended for grant of parole to the petitioner and no reason has been assigned thereon for declining the prayer of the petitioner. Learned counsel for the petitioner has, thus, made prayer for allowing this petition and extending the benefit of parole for a period of 08 weeks to the petitioner.

4. On the other hand, learned Assistant Advocate General, Punjab has argued that the petitioner has been found involved and convicted in a case relating to NDPS Act and in case, he is released on parole, he may indulge in similar offences. Even otherwise, the grant of parole to a convict is discretionary in nature and the petitioner cannot claim the same as a matter of right. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. Section 3 of the Punjab Good Conduct Prisoner's (Temporary Release) Act, 1962 (*for short 'the Act, 1962'*) provides for temporary release

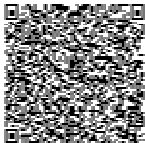
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of any prisoner on being satisfied of the circumstances as mentioned therein and for the period as mentioned in Section 3 sub-section (2) of the Act, 1962. As mentioned above, the petitioner has been convicted in the aforesaid under Section 22 of the NDPS Act for a period of 10 years and he is undergoing his sentence in District Jail at Patiala. He had moved an application for grant of parole for a period of 08 weeks but the same had been rejected by respondent No. 2-District Magistrate, Jhajjar while keeping in view the opinion furnished by respondent No. 3-Commissioner of Police, Jalandhar, wherein it was stated that in case the petitioner is released on parole, the same can affect the public order and disturb the security of the State and he can also jump the parole. A perusal of the impugned order passed by respondent No. 2 reveals that the same is totally non-speaking and solely based on the opinion given by respondent No. 3. Even a perusal of the opinion furnished by respondent No. 3 nowhere reveals as to on what basis he had reached at the conclusion that the release of the petitioner for a limited period can disturb the State security or public order. The said opinion seems to have no basis. It is not the case of the respondents that the petitioner is not otherwise entitled to be extended the said benefit. It is well settled that it is necessary for a convict to maintain his contact with society so as to enable his reformation and transform him into a responsible citizen on his release. In view of this discussion, it is held that this petition deserves to be allowed. The same is accordingly allowed.

7. The respondents are directed to release the petitioner on temporary parole of a period of 06 weeks from the date of his release from jail, subject to his furnishing sufficient bonds in terms of statutory provisions to the satisfaction of the competent authority, who would also impose

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requisite conditions to ensure that the temporary release is not misused. The petitioner shall also undertake to maintain peace and good behavior during this period. He shall surrender back to jail after expiry of the period of his temporary parole without fail.

04.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>