

2025:PHHC:080547-DB



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

Criminal Writ Petition No. 59 of 2025 (O&M)

Date of Decision: July 07 , 2025

Gurpreet Singh

..... PETITIONER (s)

Versus

State of Punjab and others

..... RESPONDENT (s)

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Ranjodh Singh Sidhu, Advocate for the petitioner.

Mr. Dhruv Dayal, Addl. AG, Punjab.

LISA GILL, J.

1. Petitioner in this case was convicted in FIR No.3 dated 14.01.2011, for the offences punishable under Sections 302, 148, 149 IPC vide judgment dated 11.10.2023, passed by learned Additional Sessions Judge, Tarn Taran. Vide order dated 13.10.2023, convict has been sentenced as under:-

Offence U/S	IMPRISONMENT	FINE	IN DEFAULT OF PAYMENT OF FINE
302 IPC	Imprisonment for life	Rs.10,000/-	Rigorous imprisonment for six months
302/149 IPC	Imprisonment for life	Rs.10,000/-	Rigorous imprisonment for six months
148 IPC	Rigorous Imprisonment for three years	-	-

2. Petitioner's application for parole was dismissed by District Magistrate, Tarn Taran vide order dated 05.12.2024 (Annexure P-2). Aggrieved therefrom present petition has been filed. Prayer for parole has been rejected by the District Magistrate vide order dated 05.12.2024 on the basis of a report dated 29.06.2024 (Annexure P-1), received from Senior Superintendent of Police, Tarn Taran to the effect that in case petitioner is released on parole there is a risk of his absconding and that his release also poses a threat to State security, maintenance of public order and peace. Benefit of parole has been denied on these grounds.

3. Learned counsel for petitioner submits that it is only due to an inadvertent mistake that prayer addressed in the petition is to release the petitioner on parole for eight weeks and setting aside of order dated 05.12.2024 has not been specifically mentioned, however, same be read in the prayer clause. Learned counsel for petitioner argues that petitioner has undergone actual imprisonment of over 07 years and is not involved in any other criminal case. He is eligible to be released on parole in accordance with the provisions of Punjab Good Conduct Prisoners (Temporary Release) Act, 1988 (for short 1988 Act). His prayer for parole has been incorrectly rejected in an illegal manner. There is no material or substance on record to indicate that release of petitioner, who is admittedly not involved in any other criminal case is likely to pose a threat to security of the State or maintenance of public order or lead to breach of peace. Furthermore, real brother of petitioner, who is also convicted in FIR No.3 dated 14.01.2011, was afforded concession of parole by this High Court (by Coordinate Bench vide order dated 06.11.2024 in Criminal Writ Petition No.10237/2024). Petitioner's brother did not misuse this concession and in case, this concession is allowed to petitioner, he would also not misuse the same. It is thus prayed that this petition be allowed.

4. Learned counsel for the State while submitting that order dated 05.12.2024 has been correctly passed, however, affirms and verifies that petitioner is not involved in any other criminal case and that he has undergone actual imprisonment of 07 years, 03 months and 26 days as on 07.07.2025 as per custody certificate available with him. It is thus submitted that this petition be dismissed.

5. Heard learned counsel for the parties.

6. It is a matter of record that petitioner has undergone actual imprisonment of 07 years, 03 months and 26 days as on 07.07.2025. It is further admitted that he is not involved in any other criminal case. Upon a pointed query, learned counsel for respondent is unable to point out any material on record which forms the basis of report of SSP, Tarn Taran, that release of petitioner would pose a threat to security of State, maintenance of public order and peace. District Magistrate, Tarn Taran has simply referred to said report dated 29.06.2024 to form his opinion in this regard. It is a settled position that such decision has to be based or founded on substantial material to indicate such possibility. This exercise is not an empty formality. Admittedly such an opinion has to be substantiated by material on record. There has to be application of mind by the District Magistrate and orders are not to be passed in routine. Competent authority is under a duty to take a considered decision in this regard after due regard to the factual matrix.

7. In the case of ***Bansi Lal versus State of Punjab and others 2016 (4) RCR (Criminal) 1017***, it has been held by Division Bench of this Court as under:-

“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 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.”

8. In the present case exercise of application of mind on the part of District Magistrate is conspicuous by its absence. It is reiterated that there is indeed no material on record which has been pointed out, which can indicate that release of petitioner shall pose a threat to security of the State, maintenance of public order and peace.

9. Yet again, in respect to the reason that petitioner is likely to abscond in case, he is released on parole, is a vague and unsubstantiated declaration. Moreover, same by itself cannot be a ground for denying parole to petitioner who is otherwise admittedly entitled to the benefit of parole in terms of provisions of 1988 Act.

10. Doubtlessly authorities under the Act are under a duty not to act arbitrarily, capriciously or without due application of mind. Power to release a prisoner on parole should be exercised objectively keeping in view intention of legislature and purpose of admitting a prisoner to parole or furlough. In the present case, learned counsel for the State is unable to justify denial of benefit of parole to petitioner in the given factual matrix.

11. Keeping in view the facts and circumstances as above, order dated 05.12.2024 (Annexure P-2) is set aside. Petitioner be released on parole for a period of six weeks, subject to furnishing necessary surety bonds to the satisfaction of competent authority and subject to conditions as may be imposed. He shall surrender before the jail authorities on expiry of said six weeks.

(LISA GILL)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

July 07, 2025
'Sunil'

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No