

(1985) 01 P&H CK 0043

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 630 of 1984

Ajmer Singh

APPELLANT

Vs

Superintendent, District Jail, Hoshiarpur

RESPONDENT

Date of Decision : 23-01-1985

Acts Referred:

Citation : (1985) 01 P&H CK 0043

Hon'ble Judges : Surinder Singh, J

Advocate : Bachittar Singh, V.K. Jindal, Advocates for appearing Parties

Judgement

Surinder Singh, J.

1. This petition under Article 226/227 of the Constitution of India has been filed by Ajmer Singh son of Kishan Singh, praying for some relief for his son Mohan Singh, who is undergoing life imprisonment in District Jail, Hoshiarpur. The relief prayed for in the petition is to the following effect :

(i) a writ in the nature of Habeas Corpus holding that the detenu Mohan Singh son of Ajmer Singh, resident of Village Manella, P.O. Khamano Kalan, District Ludhiana, presently life convict confined in District Jail, Hoshiarpur, has been deprived of the benefit of Punjab Good Conduct Prisoners (Temporary Release Act, 1962, illegally);

(ii) a direction be issued holding that the order passed by the Superintendent, Jail while awarding the punishment dated 20.11.1984 is illegal as the same has been passed without following the procedure established under law;

(iii) a direction be issued to the respondent to quash the punishment dated 20.11.1984; whereby the Jail Superintendent has warned the detenu and has ordered to keep the detenu in separate Cell under paragraph 575 of the Punjab Jail Manual;

(iv) a direction be issued to the respondent to forward detenu's case for parole for 42 days under the Act of 1962.

2. Notice of the petition having been issued, written statement in the shape of affidavit of Shri T.C. Katoch P.P.S (1), Inspector General of Prisons, Punjab, on behalf of the respondent has been filed. The substance of the allegation of the petitioner is that Mohan Singh aforesaid was sentenced by the Sessions Judge, Ropar, on November 24, 1975 in a murder case. Since the date of his arrest, he has been continuously confined behind the bars, except for the period he was released on parole/furlough from time to time under the orders of the Punjab Government. It is further stated that the prisoner was entitled to the benefit of parole under the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (hereinafter referred to as the Act) and he was due for release on parole for 42 days with effect from December 2, 1984. This benefit was, however, denied to the prisoner because he was awarded a punishment on November 20, 1984. The petitioner is unable to produce a copy of the order imposing the said punishment as admittedly no such copy was supplied to him. According to the petitioner, there is nothing adverse against the prisoner except the aforesaid punishment awarded to him on November 20, 1984, on the basis of which he could be disentitled to the benefit of parole under the Act.

3. Referring to the allegations on which the prisoner was punished, it was alleged that all that was attributed to him is that he showed sympathy towards some fellow prisoners who were confined in the same Jail under the National Security Act, 1980, and on account of this fact an entry was made in the History Ticket of the prisoner that a punishment of warning had been imposed upon him. The prisoner was also ordered to be put in a Cell separate from the other prisoner of the Jail. In the wake of these allegations, the various prayers have been made in the petition which have been noticed above.

4. In the reply filed on behalf of the respondent, it is averred in para 5 thereof that the allegation against the prisoner is that he sympathised with the other prisoners creating unruly atmosphere by raising antinational slogans inside the Jail. It was also averred that under para 609 of the Punjab Jail Manual, "Abetting of Commission of any prison offence" is considered as a jail offence. The prisoner was, therefore, awarded a punishment of strict warning besides being ordered to be kept in a separate Cell, as envisaged under para 575 of the Manual. In regard to the copy of the order of punishment, it is stated in the reply that the prisoner had never asked for the copy. Hence, it was not supplied.

5. At the time of hearing of this petition, the learned State counsel was asked to produce a copy of the impugned order of punishment and the same has been placed on the record today. The order which has been passed by the Superintendent of the District Jail, Hoshiarpur, on November 20, 1984, if translated into English would run as follows :

"Prisoner is present.

He admits his fault that he did raise a slogan but he did not do anything else. Prisoner Hardip Singh who was with him in the barrack stated that the prisoner

(Mohan Singh) had shouted a slogan but had not done anything else. The prisoner has expressed remorse over his conduct. He has already undergone more than eight years of imprisonment. Accordingly taking a lenient view of the matter, punishment of strick warning is issued to him. In order to watch the conduct of the prisoner, he shall be kept in the separate Cell Block under the provisions of para 575 of the Punjab Jail Manual. Announced. The learned Sessions Judge be informed.

Sd/

Superintendent, District Jail,

Hoshiarpur.

6. A perusal of the above order passed by the Superintendent, District Jail, would indicate that there is no mention about the prisoner having raised antinational slogan as averred in the reply to the petition filed in this Court. It is further not indicated as to whether the prisoner was afforded any opportunity to defend the charge levelled against him. Merely on the basis of such a unilateral and cryptic order, his welllearned right of release on parole cannot be taken away as has been done in the present case.

7. The petitioner has annexed a copy of the letter May, 17, 1962 issued by the Inspector General of Prisons, Punjab, Chandigarh, to the Superintendents of all Jails in Punjab (Annexure P/1) on the subject of the procedure to be followed in cases of Commission of jail offences by prisoners and award of punishments thereof. In this letter, certain observations of this Court in a decided Writ Petition were quoted. One of the observations is that "Since no statements of the coprisoners were recorded in the presence of the petitioner nor was he informed of those statements at any time, reasonable opportunity to refute the allegations made against him was denied to him and, therefore, the enquiry was in violation of the principles of natural justice". These observations are squarely applicable to the facts of the present case, as no statement of any coprisoner was specifically recorded before imposition of the punishment upon the prisoner.

8. In view of these circumstances, it is ordered that on the basis of the order passed by the Superintendent, District Jail, on November 20, 1984, the prisoner shall not be deprived of the benefit of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, in regard to parole/furlough and the case of the prisoner for being released on parole for 42 days shall be forwarded to the concerned authorities, if there is no other impediment in doing so.

9. The Writ Petition stands disposed of accordingly.