
(2022) 10 P&H CK 0040

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 6663 Of 2022 (O&M)

Jagjeet Singh

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 11-10-2022

Acts Referred:

Constitution Of India, 1950 — Article 226, 227

Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 — Section 3(1)(d)

Citation : (2022) 10 P&H CK 0040

Hon'ble Judges : G.S. Sandhawalia, J; Jagmohan Bansal, J

Bench : Single Bench

Advocate : Ruhani Chadha, Navneet Singh

Final Decision : Allowed

Judgement

G.S. Sandhawalia, J

The present criminal writ petition has been filed under Article 226/227 of the Constitution of India read with Section 3 (1) (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short 'the Act') for grant of 8 weeks parole to the petitioner.

The conviction had been recorded under the NDPS Act for a period of 20 years, vide order dated 11.11.2021 passed by the Special Judge, Kapurthala, on account of recovery of 18 quintals of poppy husk. The appeal is stated to be pending before this Court.

The prayer for grant of parole for meeting the family members was forwarded to the District Magistrate, Moga by the Jail Superintendent, Central Jail, Kapurthala. On the basis of a adverse report received from the Senior Superintendent of Police, Moga that during parole there are chances that the petitioner may be declared as proclaimed offender and there would be a threat to the State security and during parole the petitioner may indulge into illegal activities and start selling intoxicant substances, the benefit of grant of parole has been declined by

the District Magistrate, vide order dated 02.05.2022 (Annexure P-1).

A perusal of the custody certificate filed alongwith the reply as Annexure R-1 would go on to show that since the date of the arrest/FIR dated 08.02.2019 he is in custody and has not been granted parole for even one day and, thus, has undergone 3 years, 7 months and 9 days of incarceration. The reply filed also as such brings on record to the contrary to show that there is no other case pending against the petitioner.

In the considered opinion of this court, the purpose of parole as such which has been elaborated several times by this Court has been lost sight of by the competent authority while passing a stereotype order.

In CRM-M-34013-2009 titled as 'Varun @ Gullu Vs. State of Haryana and others' decided on 26.04.2010, it was held by the Coordinate Bench that the rejection in a mechanical manner on the ground of breach of peace is contrary to the provisions of Act, which are incorporated as a reformative measure. Similar, view had been taken in Ram Chander Vs. State of Punjab and others, 2017 (3) RCR (Crl.) 340 that in the absence of any material before the District Magistrate denial of benefit of parole would not be justified which was being prayed for meeting the family members.

It is to be noticed that the petitioner is in custody for a period of over 3 and 1/2 years and has not been granted parole even for one day and therefore, rejection is not justified.

Accordingly, the present petition is allowed and the impugned orders passed by the District Magistrate dated 02.05.2022 (Annexure P-1) is quashed. The petitioner be released on parole for a period of 6 weeks on furnishing of requisite bail bonds/surety bonds to the satisfaction of the competent authority. He shall surrender back to the jail authority, after the expiry of the parole period.

Petitions stand allowed, accordingly.