
(1988) 09 P&H CK 0075

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 1636 of 1988

Shisha Singh

APPELLANT

Vs

State of Punjab and anr.

RESPONDENT

Date of Decision : 27-09-1988

Acts Referred:

Citation : (1988) 2 RCR(Criminal) 480

Hon'ble Judges : A.P.Chaudhri, J

Advocate : Naresh Katyal, J.S. Bhatti, Advocates for appearing Parties

Judgement

A. P. Chaudhri, J.

1. The petitioner is undergoing life imprisonment following his conviction dated 28/1/1980, in Central Jail, Patiala. He had never committed any jail offence and had earned remissions of seven years and two months. There was no complaint against his conduct on account of his temporary release on parole or furlough in the past. He applied for temporary release under section 3(1)(a) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 on the ground that his mother was ailing. The petitioner having already lost his father, he is the only adult male member who could attend to his mother. His family had shifted to and had started living in village Rathora Khurd, District Meerut (Uttar Pradesh). This application was ultimately declined by the authorities. The order rejecting his application has been challenged as illegal, arbitrary and discriminatory. "Along with the petition, he filed a certificate issued by the Sarpanch and six members of the panchayat of village Rathora Khurd. In the certificate it has been stated that the prisoner, petitioner herein, had an agricultural piece of land in the village and his mother is ailing. They have requested that the prisoner be granted parole in order to enable him to attend to his ailing mother.

2. In response to the notice, Shri Naresh Katyal, Advocate, appeared and no reply has been filed to the above petition.

3. The application has been opposed on the solitary ground that the petitioner

failed to produce any cogent material to establish that his mother was ailing. The learned counsel for the petitioner invited my attention to the certificate issued by the Panchayat. Once the prisoner is undergoing imprisonment, he is in the nature of things greatly handicapped in producing cogent material to satisfy the authorities about the genuineness of the grounds pleaded by him. It is the duty of the authorities therefore, to make enquiry through their own sources to and out whether the ground pleaded by the prisoner was genuine. No material has been placed before me, to show that the authorities in this case made any efforts to ascertain the genuineness of the grounds on which parole was asked for by the petitioner. It can also be inferred that the enquiry revealed that the ground was genuine. In either case, the petitioner is entitled to be released on parole. It is, therefore, directed that the petitioner shall be released on parole for a period of four weeks on his furnishing bond and surety to the satisfaction of Chief Judicial Magistrate, Patiala. Dasti.