

(2024) 12 P&H CK 1258
In the Punjab And Haryana At Chandigarh
Case No : CRWP Of 8903 Of 2024

Taslim	Vs	APPELLANT
State of Haryana and others		RESPONDENT

Date of Decision : 03-12-2024

Acts Referred:

Constitution Of India, 1950 — Article 226
Indian Penal Code, 1860 — Section 436, 342, 307, 302, 34

Citation : (2024) 12 P&H CK 1258

Hon'ble Judges : Manjari Nehru Kaul, J

Bench : Single Bench

Advocate : Susheel Gautam, Yuvraj Shandilya

Final Decision : Disposed Of

Judgement

Manjari Nehru Kaul, J

1. Prayer in the instant petition filed under Article 226 of the Constitution of India is for setting aside order dated 09.08.2024 passed by the Commissioner, Karnal Division, District Karnal and to grant parole to the petitioner.
2. The petitioner is challenging the rejection of his application for grant of regular parole. The petitioner was convicted and sentenced to undergo life imprisonment by the learned Additional Sessions Judge, Karnal in FIR No.43 dated 17.01.2023 for offences under Section 436, 342, 307, 302 read with Section 34 of the IPC.
3. The petitioner, having completed over a decade of incarceration, now seeks parole to reunite with his family, a request that has been denied by District Magistrate, Ghaziabad, based on apprehensions, which as per the learned counsel for the petitioner, are vague and unsubstantiated.
4. Learned counsel for the petitioner has assiduously submitted that the petitioner has already undergone 10 years, 05 months and 18 days of imprisonment without any instance of misconduct. His conduct within the prison

has been exemplary throughout this period. Further, the petitioner has an ailing elderly mother, a wife and 4 children, residing in Ghaziabad, Uttar Pradesh; the request of the petitioner for grant of parole, filed under the provisions of the New Act, 2022, aimed to facilitate temporary reunion with his family for 10 weeks. However, it has been submitted by the learned counsel that the application was rejected by the District Magistrate, Ghaziabad, citing vague apprehensions that the petitioner might abscond or commit untoward acts, if released.

5. It has been vehemently contended that the impugned order/ rejection order dated 9th of August 2024 annexed as Annexure P-1, is arbitrary, devoid of cogent reasoning, and unsupported by any substantive evidence. The apprehension expressed in the order is entirely speculative and fails to meet the threshold of a reasoned decision.

6. While drawing the attention of this Court to the resolution passed by the Gram Panchayat of the village from which the petitioner hails, it has been submitted that the Gram Panchayat has vouched for the petitioner's good conduct during the parole period, which fact also stands reflected in the reply filed by the State.

7. In support of his submissions that the petitioner deserves to be extended the benefit of parole, learned counsel has placed reliance upon the judgment of the Hon'ble Supreme Court in *Asfaq vs. State of Rajasthan and others*, 2017 AIR (SC) 4986 wherein the Apex Court underscored the importance of adopting a humanistic and reformatory approach towards prisoners. It has been urged that the Supreme Court highlighted that denial of such opportunities, especially for prisoners who have shown good conduct, is counter-productive to their rehabilitation and reintegration into society.

8. It has been further emphasized by the learned counsel that the parole serves as an essential facet of the reformatory criminal justice system, enabling convicts to maintain familial ties, rebuild community connections, and prepare for eventual reintegration into mainstream society.

9. Learned counsel for the petitioner has vehemently argued that no material facts or evidence support the apprehension of absconding. On the contrary, the petitioner's impeccable conduct since his incarceration and the absence of any other criminal record strengthen his case for parole.

10. Learned State counsel, on the other hand, has not disputed that the conduct of the petitioner in jail has been exemplary and that no other criminal case is pending against him. However, the learned State counsel has drawn the attention of this Court to the report of Commissioner of Police, Ghaziabad, which as per the counsel, raises an apprehension that the petitioner may abscond, if released, and that his release would lead to untoward incidents. It has been contended that this report forms the basis of the rejection order by the District Magistrate, Ghaziabad.

11. On a pointed query, learned State counsel has, however, not disputed that on

an earlier occasion when the petitioner was released on parole, he had not misused the said concession and had surrendered back on time in the jail.

12. I have heard learned counsel for the parties and have perused the relevant material placed on record.

13. It is settled legal principle that parole is an indispensable facet of the reformatory justice process. It aims to facilitate the gradual reintegration of prisoners into society while ensuring that they do not lose familial or societal bonds during their incarceration.

14. The apprehension that a convict may abscond during parole cannot serve as a blanket ground for rejecting their applications for parole. A Division Bench of this Court in *Daler Singh versus State of Punjab*, in CRWP 1322 of 2015 dated 26.04.2016 (Neutral Citation No:=2016:PHHC:041377-DB) has held that even a history of smuggling could not justify parole denial solely on the basis of unsubstantiated apprehensions.

15. In the present case, the exemplary conduct of the petitioner throughout his incarceration, the assurance and undertaking given by the Gram Panchayat of the village from where the petitioner hails, and the absence of any criminal antecedents significantly weaken the validity of the apprehensions raised by the District Magistrate, Ghaziabad.

16. Further, conditions can always be imposed to mitigate any potential risks associated with parole. These may include execution of bonds, provision of sureties, and adherence to a strict code of conduct during the parole period. The State has failed to demonstrate why such safeguards would not suffice in this case.

17. Denying parole on the basis of vague and generalized apprehensions undermines the very purpose of the reformatory justice system. Hon'ble the Supreme Court in *Asfaq* (supra) emphasized the significance of parole in ensuring that prisoners are not alienated from their families and society, a process that is crucial for their successful rehabilitation.

18. In the light of the above discussion, impugned order dated 09.08.2024 deserves to be set aside being devoid of any cogent reasoning.

19. The petitioner is granted parole for a period of four weeks from the date of his release. The parole shall be subject to the satisfaction of the District Magistrate concerned, who may impose appropriate conditions to ensure compliance by the petitioner. These conditions shall include:

(i) execution of personal and surety bonds;

(ii) a commitment to good behaviour and abstention from any unlawful activity during the parole period; and

(iii) any additional conditions deemed necessary by the District Magistrate to

secure the return of the petitioner to custody upon the expiry of the parole period.

20. The petition is disposed of in the aforesaid terms.