

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

205

CRWP No.3196 of 2022 (O&M)
Date of Decision: 05.07.2022

Mahammad Shehbaz

...Petitioner

VERSUS

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE G. S. SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Narinder Kumar Awasthi, Advocate for the petitioner.

Ms. Monika Jalota, D.A.G. Punjab.

G.S. SANDHAWALIA, J. (Oral)

The challenge in this criminal writ petition filed under Article 226 of the Constitution, is to the order dated 12.07.2021 (Annexure P-1), whereby the claim of the petitioner for grant of 6 weeks parole under the Punjab Good Conduct Prisoners' (Temporary Release) Act, 1962, has been rejected.

Perusal of the impugned order would go on to show that in spite of noticing the observations of the Coordinate Bench in CRM-M-34013-2009 titled *Varun @ Gullu vs. State of Haryana and others* (decided on 26.04.2010) that request for release on parole or furlough could not be rejected in a mechanical manner on the ground of apprehension of breach of peace and to decline the request for temporary release by specifying endanger to the security of the State or public order. The authority in question has done the same in violation of the observations made. The same was only on account of the fact that there was report of Senior Superintendent of Police, Sangrur on account of involvement of the

petitioner in FIR No.27 dated 29.03.2018 under Sections 302, 120-B and 201 IPC at Police Station Sandaur and is guilty in a heinous crime. His release on parole was held to be dangerous for the opposite party and may cause loss of life and property to complainant and endanger the security of the Nation.

It is not dispute that the conviction was recorded way back on 13.03.2020 and the petitioner is in custody after the lodging of the FIR since 06.04.2018. As per the custody certificate dated 04/05.07.2022, he has not been released on parole even for a single day. As per the said custody certificate, the petitioner has undergone 4 years, 2 months and 27 days of actual imprisonment.

The ground for release of the petitioner on parole that his parents are old and remain ill and seeks parole for 6 weeks to take care of his old parents, which has been brushed aside by the Additional Deputy Commissioner, Tarn Taran, while dismissing the application of the petitioner. The report of the Senior Superintendent of Police, Sangrur also is singular in its opinion that release of petitioner on six weeks parole could disrupt law and order in the city and endanger the country's security. Nothing has been discussed as such, in which circumstances the petitioner has been convicted, what was his crime and the manner in which he had committed the same to show that his release on parole after 4 years of conviction, endangers the security of the Nation. Even the ground as such of his release has not been discussed whether his parents are genuinely unwell and aged and therefore, the impugned order suffers from lack of application of mind.

It is settled principle that release on parole is part of the reformatory process. The Division Bench in *Arun Kumar vs. State of U.T.*,

Chandigarh and others, 2011 (2) AICLR 361 held that release of convict on parole is a wing of reformatory process. The provisions of the Act have been enacted as a reformatory measure with an object to enable the prisoner to have family association or to perform certain family obligations and rituals. Sufficient material should be available and there should be solid reasons for declining temporary release on parole.

Similarly, in *Ram Chander vs. State of Punjab and others, 2017 (3) RCR (Crl.) 340*, it was held that in the absence of any material before the District Magistrate, denial of benefit of parole as such would not be justified which was being prayed for, for meeting the family members.

Keeping in view the settled principles of law and the fact that the petitioner has been in custody for over 4 years and has not been able to come out to meet his family even once the rejection cannot be held to be justified in any manner.

Accordingly, the present petition is allowed and the impugned order dated 12.07.2021 (Annexure P-1) is quashed. The petitioner shall be released on parole for a period of six weeks, on furnishing the requisite bail bonds to the satisfaction of Competent Authority and he shall surrender back in time in jail premises on the expiry of said period after his release.

(G. S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

July 05, 2022
Sachin M.

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No