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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.101

CRM-W-647-2021 IN/AND
CRWP-10719-2020

Date of Decision: 02.07.2021

MOHD. SABIR

...Applicant/Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Non-Applicant/Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr. Hoshiar Singh Jaswal, Advocate,
for the applicant-petitioner.

(Through video conference)

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ARCHANA PURI, J.

CRM-W-647-2021

This is an application filed for preponing the date of hearing fixed in the main petition i.e. CRWP-10719-2020.

Notice in the application.

Mr. Amit Mehta, Senior Deputy Advocate General, Punjab, accepts notice on behalf of the respondents.

In view of the averments made in the application, same is allowed and main case is taken up for hearing today itself.

CRWP-10719-2020**WWW.LIVELAW.IN**

The petitioner has invoked the writ jurisdiction of this Court, thereby making prayer for quashing/setting aside the impugned order dated 24.04.2020 (Annexure P-2) passed by respondent No.2, whereby the parole case of the petitioner has been rejected, and the petitioner has further sought grant of parole under the provisions of Section 3 of the Punjab Good Conduct Prisoner's (Temporary Release) Act, 1962, and amended Act, 2018, on the ground to meet his old aged mother.

It is averred in the petition that in pursuance of judgment of conviction and order of sentence dated 03.03.2017, the petitioner is undergoing life imprisonment in case bearing FIR No.20 dated 03.03.2015 under Sections 302, 307, 3324 IPC, Police Station City-I, Malerkotla, District Sangrur. Against the said judgment of conviction and order of sentence, the petitioner had filed CRA-D-463-DB-2017, which is still pending.

Further, it is averred that the petitioner approached respondent No.3-Superintendent, Central Jail, Patiala, for grant of parole. Vide report dated 12.02.2020, the Municipal Council had fully recommended the case of the petitioner for grant of parole. However, respondent No.2-District Magistrate, Sangrur, vide letter dated 24.04.2020, finally rejected the case of the petitioner, thereby stating that Senior Superintendent of Police, Sangrur has not recommended the case of the petitioner for release on parole. The impugned order/letter dated 24.04.2020 is Annexure P-2.

Also, it is averred that the widow mother of the petitioner is an aged lady, who is living alone. The brother of the petitioner is married and

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is living with his family and not taking care of his mother. Therefore, the petitioner is seeking indulgence of this Court for grant of parole.

Learned State Counsel has filed reply on behalf of respondents No.1 and 3 and custody certificate of the applicant-petitioner, through e-mail, hard copy whereof is brought on record.

In the reply it is stated that the petitioner applied for 8 weeks' parole on 21.01.2019 before respondent No.3 and the same was forwarded to respondent No.2 for verification. However, respondent No.2-District Magistrate, Sangrur, did not recommend the case of the petitioner for parole and if he recommends the case of the petitioner, only then the petitioner can be released on parole.

We have heard the learned counsel for the petitioner as well as learned State counsel and with their able assistance perused the record.

The petitioner had sought grant of parole to facilitate him for taking care of his widow mother, who is an aged lady. However, vide letter dated 24.04.2020 (Annexure P-2), the case of the petitioner for grant of parole was considered and Senior Superintendent of Police had reported that there may be danger to State Authority/breach of peace, if the convict is released on parole and, as such, no recommendation was made for release of the petitioner on parole.

The Punjab Good Conduct Prisoner's (Temporary Release) Act, 1962, was enacted for temporary release of the prisoners, on account of their conduct, but on certain conditions. It is though a privilege granted by the State to the prisoners, but however, it cannot be clipped for the vague reasons. The name of the Act itself suggests that in order to earn temporary release, the prisoner has to maintain good conduct, during his stay in the

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prison and furthermore, he has to behave properly during the period of parole and also not disturb the social peace. Even though, in the impugned order it is stated that the Senior Superintendent of Police, Sangrur had reported that there may be danger to the State Authority and breach of peace, if the convicts mentioned therein (which also includes the present petitioner), are released on parole. Therefore, no recommendation has been made for their release, but however, nothing as such has been specified about the manner, in which the release of the petitioner on parole shall pose danger to the State Authority or may cause breach of peace. The reason, so assigned in the impugned order is quite vague. Even though, the matter relating to release on parole of four convicts, including the present petitioner, was considered, but however, nothing as such has been disclosed about the manner, in which each one of them posed threat to the State Authority or their release may result into breach of peace.

Even though, the reply has been filed, but in the same also, the recitals of the impugned order, as such, have been stated to be the reasons for not making recommendation for release of the petitioner on parole. Nothing has been specified about the said grounds. As such, the reasons so given by the State are quite vague.

Perusal of the Custody Certificate annexed with the reply reveals that the petitioner has undergone total sentence of 9 years 11 months and 13 days (including remission) and after conviction he has undergone 4 years 1 month and 18 days in custody. There is nothing, as such, mentioned in the custody certificate about the petitioner to have not maintained good conduct while his detention in jail, during the pendency of the trial or during

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post conviction period. Further, nothing is coming on record about the petitioner to have misused the grant of parole, at any time.

In the given circumstances, the present petition, as such, is hereby allowed and the petitioner is hereby ordered to be released on parole for a period of 6 weeks, subject to his furnishing bail/surety bonds to the satisfaction of releasing Court/Duty Magistrate concerned, within a period of 7 days from today onwards.

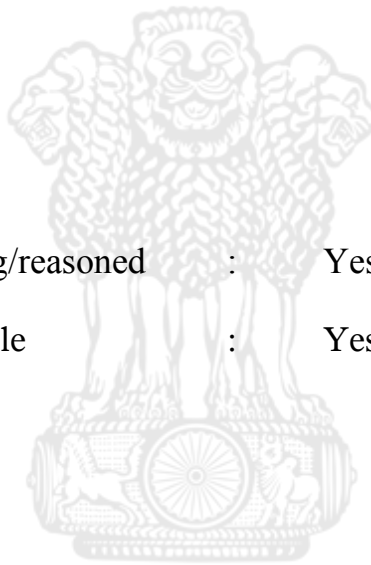
(RITU BAHRI)
JUDGE

(ARCHANA PURI)
JUDGE

02.07.2021
himanshu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No



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