

Law Today Live Doc. Id. 15742

PUNJAB AND HARYANA HIGH COURT

Before: Suvir Sehgal, J.

CRWP-7355-2020

Decided on: 04.12.2020

Shampy Singh

Petitioner

Versus

State of Punjab and others

Respondents

Present:

Mr. Mikhail Kaid, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab for the respondents

Punjab Good Conduct Prisoners' (Temporary Release) Act, 1962 (11 of 1962), Section 3 -- Punjab Good Conduct Prisoners' (Temporary Release), Rules, 1963, Rule 3, 4 -- Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985), Section 15 -- NDPS case -- Involvement in other NDPS cases -- Parole -- Right of -- Two grounds on which parole has been denied; that petitioner is involved in other cases registered against him under the NDPS Act and secondly, there is an apprehension that if he is released on parole, he will engage in selling drugs to youth which will create a law and order problem -- Impugned order set aside, respondents directed to release the petitioner on temporary parole for a period of 4 weeks subject to his furnishing bonds/surety with additional terms and conditions:

i. The petitioner shall furnish a mobile number to Superintendent Jail as well as the SHO of the police Station within whose jurisdiction the petitioner would be staying during the period of parole;

ii. The petitioner would also furnish an undertaking or surety to the effect that he will not indulge in any illegal activity in relation to drugs and intoxicants.

(Para 6,7)

Cases referred:

1. Jeet Singh Vs. State of Punjab and others, Law Today Live Doc. Id. 15283.
2. Manjit Singh @ Ladu Vs. State of Punjab and others, CWP No.19340 of 2019, decided on 02.09.2019.

SUVIR SEHGAL J. (ORAL) –

1. The hearing of this petition has been taken up through video conferencing on account of outbreak of novel corona virus.

2. The petitioner has approached this Court under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of impugned order dated 18.05.2020, Annexure P-1, passed by the District Magistrate, Sangrur, whereby the application for temporary release of the petitioner on parole has been rejected.

3. Facts, in brief, are that the petitioner has been convicted under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') in FIR No.164 dated 01.12.2014 registered at Police Station Amargarh, District Sangrur and has been awarded rigorous imprisonment of 10 years with fine of Rs.1 Lac and in default of payment of fine to further undergo rigorous imprisonment for one year. The petitioner is undergoing the sentence at District Jail Nabha. Appeal filed by him challenging his conviction was dismissed by this Court on 20.11.2019. He submitted an application for temporary release on parole to meet and look after his old and widowed mother. His application has been recommended by the Gram Panchayat, Village Jolian, Tehsil Bhawanigarh, District Sangrur, Annexure P-3. After enquiry, his application has been rejected by the District Manager, Sangrur vide impugned order, Annexure P-1, on the ground that he is involved in cases under the NDPS Act and in case, he is released on parole, he will again indulge in the sale of drugs and will be a threat to the security of the State.

4. Upon notice, the respondents filed a short reply by way of affidavit of DSP, Sub Division, Bhawanigarh, District Sangrur, supporting the impugned order. In their reply, they have submitted that the petitioner is involved in 4 cases, all of which have been registered for offences under the provisions of NDPS Act. Out of the said cases, the petitioner has been convicted in two cases, acquitted in one and the 4th case is pending trial. It has been further submitted that as the petitioner has been indulging in smuggling of narcotic substances, his case has not been recommended by the Senior Superintendent of Police for release vide report dated 13.05.2020, Annexure R-2/T.

5. I have considered the rival submissions of the parties.

6. The two grounds on which parole has been denied to the petitioner are that he is involved in other cases registered against him under the NDPS Act and secondly, there is an apprehension that if he is released on parole, he will engage in selling drugs to youth which will create a law and order problem. This precise situation came up for consideration before this Court in **CRWP-2156-2019, Jeet Singh Vs. State of Punjab and others, decided on 07.01.2020 = Law Today Live Doc. Id. 15283**. After discussing the case law, this Court held that though the petitioner is involved in other cases under the NDPS Act, yet the likelihood of his involvement in similar offence while on parole is not to be taken as an active and real apprehension of threat to the security of the State or to the maintenance of public order. Reliance was placed upon a judgment of the co-ordinate Bench in **CWP No.19340 of 2019, titled as Manjit Singh @ Ladu Vs. State of Punjab and others, decided on 02.09.2019**. The Court further held that there is nothing on the record to support the apprehension expressed by the State. Similar is the position in the present case.

7. In view of the above, the writ petition is allowed and the impugned order dated 18.05.2020, Annexure P-1 is set aside. The respondents are directed to release the petitioner on temporary parole for a period of 4 weeks subject to his furnishing bonds/surety to the satisfaction of the District Magistrate/competent authority. In view of the facts of the case, the parole of the petitioner shall be subject to the following additional terms and conditions:

- i. The petitioner shall furnish a mobile number to Superintendent

Jail as well as the SHO of the police Station within whose jurisdiction the petitioner would be staying during the period of parole;

- ii The petitioner would also furnish an undertaking or surety to the effect that he will not indulge in any illegal activity in relation to drugs and intoxicants.

8. In the event of violation of any of the above conditions, his release warrants would be cancelled and it would be open to the authorities to take action as provided in the Punjab Good Conduct Prisoners (Temporary Release) Rules, 1963. It will also be open to the authorities to maintain a constant vigil on the conduct of the petitioner so that he does not indulge in any illegal activity.

Petition allowed.
