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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRWP-4908-2025 (O&M)
Date of decision: 09.07.2025**

Jaspal Singh @ Jassa

... Petitioner

Vs.

State of Punjab and others

... Respondents

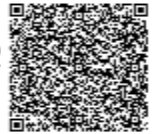
CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Lakhwinder Singh Lakhanpal, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. Present criminal writ petition has been filed under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS'), wrongly mentioned as 'BNS', read with Section 3(1)(d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short 'the Act') seeking release of the petitioner on parole for a period of six weeks to meet his family members.

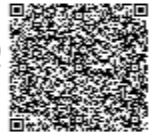
2. Learned counsel for the petitioner contends that in a case arising out of FIR No.73 dated 18.06.2020 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Talwandi



Bhai, District Ferozepur, the petitioner was convicted and sentenced by learned Judge, Special Court, Ferozepur vide judgment of conviction and order of sentence dated 01.05.2024 to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.1.00 lakh along with default mechanism. As per custody certificate dated 07.07.2025, the petitioner has undergone actual sentence of 01 year, 08 months and 24 days. He further contends that on 16.09.2024, the petitioner had filed an application under the provisions of Section 3(1)(d) of the Act seeking temporary release on parole for eight weeks. However, almost 10 months have passed but no action has been taken on the said application, which is in violation of fundamental rights of the petitioner enshrined under Article 21 of the Constitution of India. It is further contended that the petitioner is a married person, having two children. Moreover, his mother is suffering from various age related ailments and he has filed the said application to provide emotional support and care to her. Learned counsel for the petitioner relies upon two judgments passed by the Division Bench of this Court in ***Joginder Singh Vs. State of Punjab, CRWP-7506-2020*** and ***Mahammad Shehbaz Vs. State of Punjab and others, 2022 (3) Law Herald (P&H) 2100*** and submits that case of the petitioner is squarely covered by the said judgments.

3. Notice of motion.

4. Mr. Subhash Godara, Addl. A.G., Punjab, who is present in the Court, accepts notice on behalf of the respondents-State and submits that case



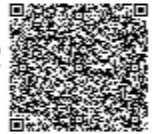
of the petitioner for temporary release is pending consideration before the District Magistrate, Moga.

5. Reply by way of affidavit of Satnam Singh, Superintendent, Central Jail, Ferozepur, on behalf of respondent No.3 has been filed in the Court today, which is taken on record and copy thereof has been supplied to learned counsel for the petitioner.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the office of Superintendent, Central Jail, Ferozepur had forwarded the case of the petitioner to the District Magistrate, Moga vide letter no.8944 dated 16.09.2024. Further the office of the District Magistrate, Moga had sought a report from the office of Senior Superintendent of Police, Moga. However, it appears that the application of the petitioner for temporary release has been pending before the concerned authorities for the last 10 months.

7. The very object of the Act is humanitarian in nature. Providing opportunities for temporary release ensures that the ties between the prisoner and the society are not severed. Ensuring that the incarcerated have healthy roots in the society greatly assists in their rehabilitation and reintegration. It also incentivizes the inmates to maintain good conduct while in custody, that aids the jail authorities in administration as well.

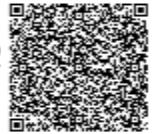
8. It is deeply concerning that State agencies display such laxity in dealing with applications for temporary release. The administration cannot



truly comprehend the value of liberty as perceived by a prisoner, who lives its absence every single day. Such an undisciplined approach is symptomatic of the culture of apathy that has developed on the subject of rights and well being of convicts. In denying them their legal right to be considered for temporary release under a statute that has been created for this very purpose, the authorities have essentially categorized them as second-class citizens.

9. This Court is of the *prima facie* opinion that casual and lackadaisical conduct of the concerned authorities cannot be allowed to continue unchecked. The competent authority is required to assess the case and pass a reasoned order, either accepting or rejecting application for temporary release, within reasonable dispatch. The incarcerated cannot be expected to live at the whims and fancies of the State and neither does their incarceration entitle the administration to jeopardize their fundamental rights under Article 21 of the Constitution of India. In fact, a Constitution Bench of the Hon'ble Supreme Court in ***Sunil Batra vs. Delhi Administration (1978) 4 SCC 494*** has categorically held that all prisoners shall be entitled to all the rights bestowed upon the citizens by the Constitution of India. Speaking through Justice Krishna Iyer, the following was observed:

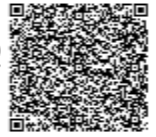
*“214. There are certain broad submissions common to both the petitions and they may first be dealt with before turning to specific contentions in each petition. **It is no more open to debate that convicts are not wholly denuded of their fundamental rights. No iron curtain can be drawn between the***



prisoner and the Constitution. Prisoners are entitled to all constitutional rights unless their liberty has been constitutionally curtailed (see *Procunier v. Martinez*, (1974) 40 L Ed 2d 224 at p. 248). However, a prisoner's liberty is in the very nature of things circumscribed by the very fact of his confinement. **His interest in the limited liberty left to him is then all the more substantial. Conviction for a crime does not reduce the person into a non person whose rights are subject to the whim of the prison administration and, therefore, the imposition of any major punishment within the prison system is conditional upon the observance of procedural safeguards** (see *Charles Wolff v. McDonnell*, (1974) 41 L ed 2d 935 at p. 937). By the very fact of the incarceration prisoners are not in a position to enjoy the full panoply of fundamental rights because these very rights are subject to restrictions imposed by the nature of the regime to which they have been lawfully committed. In *D. Bhuyan Mohan Patnaik v. State of Andhra Pradesh* (1975) 2 SCR 24 "one of us, Chandrachud J., observed:

"Convicts are not, by mere reason of the conviction, denuded of all the fundamental rights which they otherwise possess. A compulsion under the authority of law, following upon a conviction, to live in a prison-house entails by its own force the deprivation of fundamental freedoms like the rights to move freely throughout the territory of India or the right to "practise" a profession. A man of profession would thus stand stripped of his right to hold consultations while serving out his sentence. But the Constitution guarantees other freedoms like the right to acquire, hold and dispose of property for the exercise of which incarceration can be no

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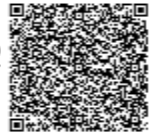


impediment. Likewise, even a convict is entitled to the precious right guaranteed by Article 21 of the Constitution that he shall not be deprived of his life or personal liberty except according to procedure established by law."
(emphasis added)

10. Further still, the custody certificate dated 07.07.2025 attached with reply by way of affidavit filed by Superintendent, Central Jail, Ferozepur, indicates that the petitioner has already undergone an actual sentence of 01 year, 08 months and 24 days.

11. Therefore, keeping in view the facts and circumstances of the case, present petition is disposed of with a direction to District Magistrate, Moga, to decide the application filed by the petitioner seeking temporary release on parole, expeditiously, in view of the ratio of law laid down in **Joginder Singh's** case (*supra*) and **Mahammad Shehbaz's** case (*supra*), preferably within a period of 02 weeks from the date of receipt of the certified copy of this order.

12. Any unjustified delay in hearing applications for temporary release, which often pertain to situations of emergency, further exacerbates the plight of the applicant/convict. In fact, the Act specifies certain situations where release for a convict on parole may be warranted. Since the statute itself bestows the convict with the right to be considered for temporary release and enlists circumstances therefor, it is all the more vital to decide such applications expeditiously. Accordingly, to spare unwarranted hardship to the



applicants and their families, it is further directed that all applications pertaining to temporary release on parole shall be decided by the concerned authority within a period of 04 months from receipt of such application. In case, these directions are not adhered to without any justifiable cause, the convicts would be at liberty to move an appropriate application under Article 215 of the Constitution of India seeking initiation of contempt of Court proceedings against the officials concerned.

13. Copy of this order be supplied to learned State counsel for the States of Punjab and Haryana as well as U.T. Chandigarh for compliance thereof.

09.07.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No