

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

Sr. No.: 215

CRWP No.7269 of 2024**Date of Decision: February 15, 2025****Balvir Singh @ Dhira**

..... PETITIONER(S)

VERSUS**State of Punjab & others**

..... RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**PRESENT:** - Ms. Satinder Kaur, Advocate, for the petitioner.

Mr. Mohit Kapoor, Sr. DAG, Punjab.

MAHABIR SINGH SINDHU, J

Present petition has been filed for quashing of the impugned order dated 09.05.2024 (P-2), passed by respondent No.5-Deputy Commissioner-cum-District Magistrate, Bathinda, whereby request of petitioner for parole was rejected.

2. It is contended by learned counsel for the petitioner that impugned order passed by respondent No.5 is without any basis and as such, the same is not legally sustainable.

3. *Per contra*, learned State counsel while opposing the prayer submits that order impugned has been passed on the basis of report dated 29.04.2024 (P-3) submitted by Senior Superintendent of Police, Bathinda-respondent No.4; thus, no interference is required by this Court while entertaining the present writ petition.

4. Heard learned counsel for the parties and perused the paper-book.

5. It transpires that petitioner was convicted and sentenced by learned Special Judge, Bathinda under Section 22(c) of the NDPS Act, 1985



CRWP No.7269 of 2024[2]

for a period of ten years along with fine of Rs.1 lakh with default clause to further undergo RI for one year vide judgment/order dated 07.11.2023 (P-1).

6. On 14.03.2024, petitioner made a request for seeking 08 weeks' parole to meet his family members; but the same was declined by respondent No.5 while passing the impugned order while relying upon the report dated 24.04.2024 (P-3).

7. For reference, relevant part of the aforesaid report is extracted as under:-

- “1. That the Prisoner Balveer Singh wants to come on parole leave to meet his family and relatives.*
- 2. That the Prisoner Balveer Singh has a son aged about 12 years. The prisoner acquired no land in his possession.*
- 3. That the Prisoner Balveer Singh is lodged in jail in case no. 37 dated 14-03-2021 U/S 22,22 NDPS Act PS- Sadar Bathinda, serving 10 years imprisonment in Central Jail Bathinda. 210 drug vials (flacons) and 1930 drug pills have been recovered in the said trial.*
- 4. That no other case than the present case was registered against the prisoner Balveer Singh.*
- 5. That the Prisoner Balveer Singh is coming on parole leave for the very first time.*
- 6. That there is a apprehension that the Prisoner Balveer Singh may indulge in smuggling drugs again during elections if comes on parole.*
- 7. That the prisoner Balveer Singh, there may be a threat to the maintenance of public order when the prisoner comes on leave during elections and due to the registration of the said case.*
- 8. That Parole leave of the said prisoner Harjit Singh is not recommended in order to maintain the law and order situation in the upcoming elections 2024, but so his leave of parole is not recommended because the prisoner may affect the general public and voters by selling drugs during the elections and the elections may be disrupted. Therefore, his parole leave is not recommended.”*



CRWP No.7269 of 2024[3]

8. On the basis of aforesaid report, respondent No.5 rejected the request of petitioner while observing as under:-

“That according to the report of Senior Superintendent of Police, Bathinda, the said Prisoner Balveer Singh is serving 10-year sentence at Central Jail, Bathinda in the Case No. 37 dated 14-3-2021, U/S 22 of NDPS Act under PS Sadar Bathinda. It has been further reported by the Senior Superintendent of Police, Bathinda that the prisoner may come out on parole and smuggle drugs during the elections due to which the maintenance of public order may be threatened when the prisoner is released on parole. A prisoner can disrupt an election while on parole. Apart from this, the Additional Director General of Police (Prisons) Punjab Chandigarh vide letter No.G1/Welfare/V-2/2352-74 dated 30.03.2024 issued by the Election Commission of India vide instructions dated 10.04.2019, that NDPS case are category is strictly prohibited for granting parole to prisoners serving sentence in the Jail. Therefore, according to the report received by the Senior Superintendent of Police, Bathinda as well as the instructions issued by the Election Commission of India through the letter dated 10.04.2019, it is inappropriate to grant parole to the prisoner Balveer Singh son of Jagraj Singh during the election period. Therefore, the leave of parole for 08 weeks to the prisoner number 2852 Balveer Singh son of Jagraj Singh resident of Teona (Sadar Police Station) District Bathinda is rejected.”

From perusal of the above extract, mainly the grounds for rejection can be summarized as under:-

- (i) Petitioner may smuggle drugs during elections and due to which the public order may be affected.
- (ii) Petitioner can disrupt an election while on parole.



CRWP No.7269 of 2024[4]

- (iii) Apart that, in view of the instructions dated 10.04.2019 issued by the Election Commission of India as well as instructions dated 30.03.2024 issued by Additional DGP (Prisons), Punjab, parole is strictly prohibited in NDPS cases.

9. So far as grounds at points No.(i) & (ii) are concerned, there is no material in support of the same; rather these are based on mere assumptions in view of the fact that neither any inhabitant of the locality; nor some responsible person, including Sarpanch was associated while recording such a conclusion; hence report (P-3) cannot be the basis to deny claim for parole to the petitioner.

10. As far as Instructions dated 10.04.2019 are concerned, the same are also not helpful to the respondents for the simple reason that these instructions were issued regarding Parliamentary Elections-2019 and despite asking of this Court, learned State counsel is not able to show that there is any fresh circular issued by the Election Commission of India for Parliamentary Elections, 2024, indicating absolute bar to grant parole in such a case.

11. In view of the above discussion, this Court is of the considered opinion that order impugned has been passed merely on the basis of surmises and assumptions; hence the same is liable to be quashed and set-aside.

12. As the poor person has been unnecessarily forced to approach this Court for seeking parole; therefore, this Court was inclined to impose exemplary costs upon respondents No.4 & 5; but learned State counsel has saved the situation with an assurance that in future, parole



CRWP No.7269 of 2024[5]

matters shall be decided on the basis of material available on record and that too, in accordance with law.

13. Consequently, petition is allowed; impugned order dated 09.05.2024 (P-2) is quashed and set aside; but no order as to costs.

14. Resultantly, petitioner is granted parole for 08 weeks from 20.02.2025 to 17.04.2025, subject to furnishing indemnity/surety bonds to the satisfaction of the competent authority.

15. He shall surrender before the jail authorities on 18.04.2025 at 11.00 a.m.

Pending application(s), if any, shall stand disposed off.

(MAHABIR SINGH SINDHU)
JUDGE

February 15, 2025

Avin/SN

Whether Speaking/ Reasoned: Yes/ No
Whether Reportable: Yes/ No