

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH JAIPUR

ORDER

D.B. CIVIL WRIT PETITION (PAROLE) NO. 9281/2015
Bhagwan vs. State of Rajasthan & Ors.

Date of Order: 31st July, 2015

PRESENT
HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA
HON'BLE MR. JUSTICE BANWARI LAL SHARMA

Mr. Govind Prasad Rawat, for the petitioner.
Mr. B.N. Sandhu, AAG cum Government Advocate.

This writ petition has been filed by the petitioner under Article 226 of the Constitution of India praying that the order dated 10.6.2015 passed by the District Magistrate, Dholpur, whereby he refused the first parole for period of 20 days be quashed.

The learned counsel for the petitioner submitted that the petitioner has been denied parole on the ground that the police has reported that in case the petitioner is released on parole, it may disturb the public peace.

The Single Bench of Punjab & Haryana High Court, in Inderjit Singh vs. State of Haryana [1996 Vol.3 RCR (Cr.) 845], while interpreting the right of convict to parole under Haryana Good Conduct Prisoners (Temporary Release) Act, 1968, had observed as under:-

4. Under Section 6 of the Act, parole can be declined on the ground if the release of the petitioner is likely to endanger the security of the

State or maintenance of public order. These two grounds are not attracted in the present case as much as security of State cannot be jeopardised by any stretch of imagination. Security of State refers to crimes intended to overthrow the Government, waging of war or internal or external aggression against the Government and such like acts. Similarly maintenance of public order refers to affray, disturbance of peace and the like. It is not made clear in the report of the Government that how his release is likely to attract the above two grounds referred in Section 6 of the Act. The State is not a weak organ that it cannot conduct the maintenance of the public order and is not in a position to keep a watch on the activities of the petitioner for the purposes of public order. The petitioner is not so strong so as to create a situation where the public order is in danger. It seems the grounds have been taken simply to deny the petitioner his right to come out of the jail under the provisions of the Act. However, if the petitioner in any way violates the conditions of release on parole, enough safeguards are provided under Section 8 of the Act and Section 9 of the Act.

5. It cannot be disputed that the purpose of release on parole is very useful to change the outlook of a criminal so as to make him a useful member of the society. If he is not allowed to be released on parole, to repair the house, it can have a very bad effect on his attitude towards the society. The stress these days is to hate the crime and not the criminal, rather to give him all the possible avenues to bring him on the path which may lead to bring peace in the society and to get rid of a criminal tendency in a criminal, and one of the ways to do it is to allow him to come out of the cold walls of the jail and to associate with the members of his family so as to carry out the obligations of a social human being so as to bring tranquillity, happiness and prosperity in the society. Many of time, crime is the result of socio-economic milieu and it is the duty of the agencies maintaining the public order and running criminal justice system, to see that the crimes are minimized and there is peace and tranquillity in the society and one of the ways to achieve this object is to give effect to social legislation and salutary provisions of the Act so that the institution of prison which is now being run as not concentration camps with all its brutalities and

devoid of human spirit and touch but as reformatory so as to churn out good citizens from bad ones.

Parole is granted to the convict so that he is able to meet his family members and carry his obligations towards family. Release of convict on parole promotes tranquility, peace, prosperity, happiness and the good will in the society.

The mere assertion of the police that the public peace will be disturbed without placing on record any material for the perusal of the court is not sufficient. It is a mere excuse and cannot be raised in every case by using words that '*public peace will be disturbed*' until the State justify and place on record any substantial material that if petitioner is released on parole, the same will cause disturbance in the society.

In the present case, except, the apprehension that if petitioner is granted parole, he will disturb the public peace, no material has been placed on record. We do not find any reason to deny parole to the petitioner.

Consequently, the impugned order is set aside and the petitioner is granted first regular parole for a period of 20 days from the date of release to the satisfaction of the District Magistrate, Bharatpur.

(BANWARI LAL SHARMA),J.

(KANWALJIT SINGH AHLUWALIA),J.

Mak/-

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All corrections made in the judgment/order
have been incorporated in the judgment/order
being emailed." Anil Makawana P.A.