

(1987) 12 P&H CK 0004

High Court Of Punjab And Haryana At Chandigarh

Case No: Habeas Corpus Writ Petition No. 495 of 1987

Kapur Singh

APPELLANT

Vs

State of Punjab and anr.

RESPONDENT

Date of Decision: Dec. 3, 1987

Citation: (1988) 1 RCR(Criminal) 278

Hon'ble Judges: K.S.Bhalla, J

Advocate: Bhupinder Pal Kaur, J.S. Bhatti, Advocates for appearing Parties

Judgement

K.S. Bhalla, J.

1. Petitioner Kapur Singh who was sentenced to life imprisonment on 6.12.1982 moved for temporary release on furlough after having undergone imprisonment for a period of more than three years excluding remissions. His case was recommended by Superintendent, Central Jail, Ludhiana where he is confined, but the same was rejected on 31.3.1987. Through present petition he has prayed for such release contending that his case falls within four corners of section 4 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (in short the Act); that his conduct in jail has been good and his case was rejected by the authorities without affording any cogent reason.

2. In the return filed on behalf of the respondents, it is not disputed that the case of the petitioner falls within the four corners of section 4 of the Act and that his conduct in jail had been satisfactory. It is also admitted that his forlough case was initiated on 30.9.1986 and was rejected on 31.3.1987. The said rejection is said to be on the basis of the police reports endorsed by the District Magistrate, Ludhiana.

3. The rejection of the case of the petitioner, however, does not appear to be based on cogent reasons and the same, therefore, cannot be justified. Section 4 of the Act contemplate consultation with the District Magistrate and police do not come into the picture. That necessarily implies that there should be subjective satisfaction of the District Magistrate concerned that the convict does not deserve the concession

which is provided by the above referred to social legislation. No report of the District Magistrate is forthcoming nor the same has been reproduced in the reply filed on behalf of respondent No. 1. On the other hand report of D.S.P. (City), Ludhiana has been reproduced, which, for obvious reasons, is not relevant. That report too is based on some letter addressed by sons of the deceased for whose murder petitioner is undergoing sentence. They belong to rival camp and being aggrieved elements cannot possibly relish any concession to the petitioner irrespective of the fact whether he deserves it or not. Respondent No. 2. i.e. the District Magistrate, Ludhiana has also filed the return in this case and his said reply does not either indicate if he applied his mind to the case and there was any subjective satisfaction of the said respondent resulting in any report sufficient for rejection of the case of the petitioner. The maximum what has been stated in his reply is that release of the petitioner was rightly not recommended keeping in view the report of the local police and the Senior Superintendent of Police, Ludhiana. This clearly indicates that only the above referred to report of the police which was based on the opinion of the opponents weighed with the District Magistrate. I, therefore, find that the denial of the petitioner's prayer was on extraneous and arbitrary grounds and cannot be upheld.

4. In the light of what has been stated above, I am of the considered opinion that petitioner Kapur Singh is entitled to temporary release on furlough. Admittedly he was not so released earlier and it is his first furlough. It is, therefore, directed that petitioner Kapur Singh be released temporarily on furlough for three weeks to the satisfaction of District Magistrate, Ludhiana.

JUDGMENT accordingly.