

(2003) 03 P&H CK 0122

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No"s. 44178-M of 2002 and 8063 of 2003

Mandeep Gaur

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: March 31, 2003

Citation: (2003) 6 CriminalCC 304 : (2003) 3 RCR(Criminal) 522

Hon'ble Judges: Amar Dutt, J

Bench: Single Bench

Advocate: A.S. Trikha, for the Appellant; Mansur Ali, DAG, Punjab, for the Respondent

Final Decision: Allowed

Judgement

Amar Dutt, J.

Petitioner Mandeep Gaur, who is serving the sentence of imprisonment for life imposed on him after his conviction and sentence in case F.I.R.No.45 dated 12.8.1994 by the Additional Sessions Judge, Patiala, on 15.10.1999 was released on parole for six weeks, which was to expire on 24.10.2002. During this period, the petitioner is claimed to have written a summary after consulting various books on "The Role of Religion in Transforming the Psyche of a Prisoner", which was appreciated by Dr. H.S. Pannu, Profession, Department of Religious Studies, Punjabi University, Patiala, who recommended the efforts in the following terms:-

Mandeep Gaur, a prisoner of your jail met me and my colleagues of this department with the request to be registered for Ph. D. degree. We had a discussion with him and office verified his academic documents. We feel this young man has a potential to pursue further research, therefore, we have cleared his candidature. Please allow this person to study in the jail premises and grant leave under rules to prepare his synopsis as he possesses the capacity to grow.

2. The petitioner, it appears, was subsequently enrolled for Ph.D. by the Head, Guru Gobind Singh, Department of Religious Studies, Punjabi University, Patiala and required to submit a synopsis of thesis at an early date. On the basis of this

communication, the petitioner asserts that he has to submit the synopsis within a month or two and, therefore, the period of parole granted to him should be extended by another six weeks. He further submits that in case he surrenders further parole can be granted to him only after expiry of six months and this will jeopardise his academic career. Hence, the present petition.

3. In reply to the notice issued by the Court, the Deputy Inspector General (Prisons), Punjab, filed an affidavit on 13.12.2002. In the affidavit, it was admitted that the petitioner had surrendered on 24.10.2002, the date on which his parole was to expire. The other averments for reasons best known to him were denied even though these were matter of record which were verifiable. It, was, however, asserted that there was no provision for extension of parole and it was submitted that the petitioner was entitled to grant of parole after six months.

4. The petitioner has sent Crl.M.No.8063 of 2003 by post. This petition is on the same lines and merely prays that the earlier petition be disposed of on an early date. The additional affidavit dated 5.3.2003 filed by the State reiterates the position taken in the affidavit dated 13.12.2002 by the Deputy Inspector General (Prisons), Punjab. This order will dispose of both these application as well as the petition.

5. I have heard Mr. A.S. Trikha, appearing on behalf of the petitioner and Mr. Mansur Ali, Deputy Advocate General, appearing on behalf of the State.

6. The concession of parole is extended to a prisoner as per the provisions of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (hereinafter referred to as "the Act"), which reads as under: -

3. Temporary release of prisoners on certain grounds:-

(1) The State Government may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2) any prisoner, if the State Government is satisfied that:-

(a) a member of the prisoner's family had died or is seriously ill; or

(b) the marriage of the prisoner's son or daughter is to be celebrated; or

(c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land and no friend of the friend of the prisoner or member of the prisoner's family is prepared to help him in this behalf in his absence;

(d) it is desirable to do so for any other sufficient cause.

(2) The period for which a prisoner may be released shall be determined by the State Government so as not to exceed-

(a) where the prisoner is to be released on the ground specified in clause (a) of sub-section (1), four weeks;

(b) where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1), four weeks; and

(c) where the prisoner is to be released on the ground specified in clause (c) of sub-section (1), six weeks.

(3) the period of release under this section shall not count towards the total period of the release of a prisoner.

4. The State Government may by notification authorise any officer to exercise its power under this section in respect of all or any of the grounds specified therein.

7. Rule 4 of the Punjab Good Conduct Prisoners (Temporary Release) Rules, 1963 which lays down the manner in which the parole case of a prisoner is to be processed does not prescribe the period after which a prisoner would be entitled to move afresh for the grant of parole. Instructions issued by the Government vide letter No. 1228S4-IJL-64/ 33315 dated 30th September, 1964, however, fixed the time to be one year after the prisoner has his earlier parole. This period it seems has now been reduced to six months as also the instructions reiterate the powers of the Government to waive the same in special and emergent cases. In the present case the assertion about the petitioner having been enrolled for doing the Ph.D. on 10.10.2002 are not denied. The University Calendar requires the petitioner to prepare and submit the synopsis within six months of the enrollment. This period would end on 10.4.2003 and, therefore, rather than trying to enforce the letter of the rule in a case where the exercise of the discretion may help to wean away the petitioners from the criminal propensities that he is alleged to possess, the State should have exercised the power in order to enable the petitioner to avail of the parole for the year 2003 before the expiry of the said period. This one time exception in the case of the petitioner would be both just and proper and, therefore, after making it clear that the same be not considered as a precedent for other cases in future, this petition is allowed and the State directed to release the petitioner on parole for a period of six weeks on his furnishing the (sic).