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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-W-546-2022 in/and
CRWP-3110-2022
Date of decision : 11.05.2022

Kamal Hassan

.....Petitioner

Versus

State of U.T. Chandigarh and others

....Respondents

**CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Hoshiar Singh Jaswal, Advocate for the petitioner.

Mr. Sumit Jain, Addl. Public Prosecutor for U.T. Chandigarh.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CRM-W-546-2022

Prayer in this application is for making certain corrections in Para Nos.2 to 4, where inadvertently because of the typographical error certain apparent errors have crept in.

Notice of the application.

On the asking of the Court, Mr. Sumit Jain, Addl. Public Prosecutor for U.T. Chandigarh accepts notice on behalf of respondents No.1 and 2. He submits that he has no objection to the prayer made in the application.

In light of the above, prayer made in the application is allowed and it is ordered that the Registry shall carry out the necessary corrections in Para Nos.2 to 4 of the Criminal Writ Petition as detailed in Para-3 of the application.

Main case

Challenge in this writ petition is to the order dated 25.01.2022 (Annexure P-3) passed by the Inspector General of Prisons, U.T.

Chandigarh (Competent Authority) under the Punjab Good Conduct Prisoners (Temporary Release) Act 1962 (hereinafter referred to as 'the Act'), whereby an application for parole preferred by the petitioner to meet his family members has been rejected.

Learned counsel for the petitioner submits that the ground on which the prayer of the petitioner for grant of parole to meet his family members has been rejected, is the report of the District Magistrate, Ayodhya (U.P.), who has not recommended the release of the petitioner. The reason assigned is that the State Government or any officer authorised is satisfied that the release of the petitioner is likely to endanger the security of the State Government or maintenance of public order. There is a possibility of the petitioner indulging in heinous crime, if he is released on parole. He asserts that on the earlier occasion also, the prayer of the petitioner for release on parole to meet his family members was rejected without there being any regular response received by the authority. He submits that apart from the present case, there is no other case against the petitioner, therefore, the conclusion as has been drawn by the authorities i.e. District Magistrate, Ayodhya (U.P.), is without any material on record and based upon assumptions and presumptions. He, thus, contends that the ground for rejection of the prayer of the petitioner for grant of parole cannot sustain and deserves to be set aside.

Learned counsel for the U.T. Chandigarh, has submitted that as per the procedure prescribed under the Act, the same has to be followed by the competent authority and it is in pursuance thereto that the matter was referred to the District Magistrate, Ayodhya (U.P.) for his consideration and recommendation which unfortunately has come against the petitioner and

therefore, the competent authority had proceeded to pass the impugned order of rejection of parole. He, however, could not dispute the factual aspect with regard to the assertion of the counsel for the petitioner that there is only one case which is the present one where he has been convicted and where the petitioner is involved and there is no other case against the petitioner.

Having considered the submissions made by counsel for the parties and keeping in view the fact that the recommendation for rejection of the claim of the petitioner on the basis of the report of the District Magistrate, Ayodhya (U.P.) being based upon no material on record, the impugned order cannot sustain and therefore, is set aside specially when there is, as per their admitted position, no other case pending against the petitioner and, therefore, conclusion as has been drawn by the District Magistrate being based upon mere assumption, conjectures and surmises and the same cannot be accepted.

The present writ petition is allowed and the impugned order dated 25.01.2022, is hereby, quashed.

Petitioner is ordered to be released on parole to the satisfaction of the competent authority for a period of four weeks to meet his family members from the date of his release, as per the provisions of law.

(AUGUSTINE GEORGE MASIH)
JUDGE

May 11th, 2022

(SANDEEP MOUDGIL)
JUDGE

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No