

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Writ Petition 1928 of 2014
Date of Decision :February 05, 2015

Ved Parkash

....Petitioner

Versus

The State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE DR.SHEKHER DHAWAN

Present : Mr. A.S. Trikha, Advocate

Mr Randhir Singh, Additional Advocate General, Haryana

T.P.S. MANN, J.

The petitioner, who is undergoing life sentence while being confined in District Jail, Karnal, has filed the present petition under Article 226 of the Constitution of India for challenging the order dated 10.11.2014 (Annexure P-1) passed by the Commissioner, Rohtak Division, Rohtak whereby his parole case for agricultural operations, had been rejected.

According to the petitioner, his parole case was recommended by the Superintendent, District, Jail, Karnal as his conduct in the jail was good and his case did not fall under the category of hardcore prisoners. Further more, he was earlier released on furlough for a period of three weeks in terms of warrant dated 30.10.2013 (Annexure P-3) issued by the Commissioner, Rohtak Division, Rohtak and during his said release, he remained peaceful and returned to the jail in time. The petitioner has agricultural land in his name and in order to cultivate the same, he had prayed for his release on parole. However, his prayer was declined on the ground that it was his first parole and being of criminal type, might commit crime. It is pleaded that the reasons specified by the Commissioner while rejecting the parole case of the petitioner were flimsy and unfounded. Prayer has, accordingly, been made for setting aside the impugned order (Annexure P-1) and for releasing him on parole for agricultural operations.

Upon notice, reply was filed by the Superintendent, District Jail, Karnal on behalf of the respondents wherein it was stated that though the parole case of the petitioner was forwarded to the District Magistrate, Karnal and to the Commissioner, Rohtak Division, Rohtak but the District Magistrate after verifying the facts, sent a specific report to the Commissioner, Rohtak Division, Rohtak by not recommending temporary release of the petitioner in view of the report of the Superintendent of Police, Karnal (Annexure R-2) and also for the reasons that the petitioner owns only half acre of agricultural land and

he being of criminal character, was likely to commit crime in the event of his release on parole. In terms of the report of the District Magistrate, Karnal and the Superintendent of Police, Karnal, the Commissioner, Rohtak Division, Rohtak declined the request of the petitioner for his release on parole by passing a speaking order. Accordingly, it is stated that the petitioner is not entitled to be released on parole in view of the provisions of Section 6 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988.

An additional reply has also been filed by the Superintendent, District Jail, Karnal on behalf of the respondents wherein it is mentioned that the Superintendent of Police, Karnal in his report dated 22.8.2014 sent to the Commissioner had stated about five other cases in which the petitioner was involved. The details of those cases are as follows:

- “1. *FIR No.62 dated 17.02.1995 U/S 302 IPC P.S.Sadar, Karnal, District Karnal.*
2. *FIR No.252 dated 15.02.1997 U/Ss 279/337 IPC P.S.Sadar Karnal, District Karnal.*
3. *FIR No.637 dated 26.04.1997 U/Ss 323/325/34 IPC P.S.Sadar Karnal, District Karnal.*
4. *FIR No.283 dated 29.05.2000 U/S 61/1/14 Excise Act P.S.Sadar Karnal, District Karnal.*
5. *FIR No.301 dated 10.06.2000 U/S 61/1/14 Excise Act P.S.Sadar Karnal, District Karnal.”*

Prayer has, accordingly, been made for dismissal of the writ petition.

Having heard learned counsel for the parties, this Court finds that the petitioner has already availed furlough and during his said release, there is no complaint that he misused the concession. It is also not stated by the authorities that he did not report back to the jail within time. Further, the petitioner does own agricultural land and in order to cultivate the same, he is seeking concession of parole.

As regards the plea of the respondents that it would be his first parole, suffice it to say that the said ground is simply absurd. The first request cannot be denied for that reason as in such a situation even the second request for parole would be declined on that ground alone. As regards the petitioner being shown to be involved in other criminal cases, it would be appropriate to notice that in three cases in which the petitioner was earlier involved, he had been acquitted. Those cases were under the various Sections of the IPC, including the one under Section 302 IPC. The two cases under the Excise Act were decided on 12.11.2005 by directing him to pay a fine of Rs.300/- in each case. The case in which the petitioner is presently undergoing life imprisonment arises out of FIR No.237 dated 21.4.2010, Police Station Sadar, Karnal. Therefore, it cannot be said that the petitioner is likely to commit some crime in the event of his being released on parole.

From the above, it is clear that the impugned order passed by the Commissioner, Rohtak Division, Rohtak while rejecting the case of the petitioner for releasing him on parole cannot be upheld.

The writ petition is, accordingly, allowed, impugned order

(Annexure P-1) is set aside and the Commissioner, Rohtak Division, Rohtak is directed to consider the case of the petitioner afresh and pass appropriate orders within a period of four weeks from the date of receipt of a certified copy of the order.

(T.P.S. MANN)
JUDGE

(SHEKHER DHAWAN)
JUDGE

February 05, 2015
pds.