

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Writ Petition No.1519 of 2015
Date of Decision : December 18, 2015

Deepak alias HaddiPetitioner
VERSUS
State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE GURMIT RAM

Present : Mr. Surender Saini, Advocate
for the petitioner.

Mr. Praveen Bhadu, Assistant A.G., Haryana
for the respondents.

T.P.S. MANN, J.

Prayer made in the petition filed by petitioner-Deepak alias Haddi is for issuance of directions to the respondents to release him on furlough for a period of twenty one days.

The petitioner is undergoing imprisonment for life for committing offences under Section 302 read with Section 34 and Section 201 read with Section 34 IPC. The appeal (CRA-D-600-DB of 2014) filed by him against his conviction and sentence was admitted on 4.4.2014 when recovery of fine was ordered to remain stayed during its pendency.

The case of the petitioner is that he is in custody since the month of March, 2012. During the trial of the case and even after his conviction and sentence he is behind the bars. In all, he has undergone a period of more than three years. During this period, he did not commit any jail offence and has also earned annual good conduct remission. He moved an application before the Jail

Superintendent seeking furlough for twenty one days to meet his family members. His application was forwarded by the Jail Superintendent to the Deputy Commissioner, Sonipat for enquiry/recommendation who further marked it to the Superintendent of Police, Sonipat. However, the Superintendent of Police, Sonipat reported that the petitioner had murdered one person of his village and, therefore, in the event of the petitioner being released on furlough, the peace of the village was likely to be disturbed. Further, Layak Ram, father of the deceased, had submitted application to the District Magistrate, Sonipat that he and his family members apprehend danger to their lives at the hands of the petitioner, in the event of his release on furlough. It was also reported that the petitioner was likely to jump furlough and disturb peace in the village. Accordingly, vide order dated 2.9.2015, the Commissioner, Gurgaon Division, Gurgaon has rejected the case of the petitioner for furlough.

It is submitted by learned counsel for the petitioner that no reasons have been assigned by the Commissioner, Gurgaon Division, Gurgaon as to how the peace of the village is likely to be disturbed in the event of release of the petitioner on furlough. It is also submitted that father of the deceased would always oppose the release of the petitioner on furlough and, therefore, application submitted by father of the deceased need not to have been looked into by the Authorities while considering his application for release on furlough. It has also been stated that the Authorities are apprehensive of the petitioner jumping the furlough without there being any basis to come to such a conclusion. Prayer has,

accordingly, been made for setting aside the order dated 2.9.2015 passed by the Commissioner, Gurgaon Division, Gurgaon and for issuance of directions to the respondents to release him on furlough.

Learned State counsel has opposed the prayer made on behalf of the petitioner by submitting that the District Magistrate, Sonipat in his letter dated 29.7.2015 (Annexure R-1) did not recommend the release of the petitioner on furlough as the Superintendent of Police, Sonipat reported that the petitioner had murdered his co-villager and due to that reason, the peace of the village would be disturbed. Even Layak Ram, the father of the deceased had submitted an application dated 10.6.2015 to the District Magistrate, Sonipat that he and his family apprehend danger to their lives. Accordingly, the Commissioner, Gurgaon Division, Gurgaon vide order dated 2.9.2015 declined furlough to the petitioner and also observed that the petitioner may abscond from furlough and cause breach of peace in the village.

Having heard learned counsel for the parties and on going through the petition as well as the reply filed thereto, this Court finds that merely because the petitioner had murdered his co-villager and the Authorities are apprehensive about disturbance of the peace of the village in the event of the petitioner being released on furlough or the father of the deceased opposing the request of the petitioner or the petitioner likely to jump furlough are not supported by any material on the file. As regards, Layak Ram, father of the deceased opposing the prayer of the petitioner for furlough, the same cannot be accepted as he would always oppose

such like request of the petitioner.

It may not be out of place to mention here that in the case regarding murder of complainant Layak Ram's son, three persons were nominated, i.e. petitioner Deepak alias Haddi, Krishan and Savinder. All three of them stand convicted and sentenced. In para 10 of the petition, the petitioner has asserted that both Krishan and Savinder, who also belong to the village of the petitioner, had preferred applications for furlough which have been allowed by the Authorities. In the reply, contents of para 10 of the petition have not been specifically denied. If the two convicts of the petitioner can be released on furlough, this Court finds no justification for the Authorities to oppose the prayer of the petitioner for grant of furlough.

Resultantly, order dated 2.9.2015 (Annexure P-1) passed by the Commissioner, Gurgaon Division, Gurgaon declining the application of the petitioner for furlough is set aside and the petitioner is ordered to be released on furlough for a period of twenty one days from the date of his actual release, subject to his furnishing appropriate bail bonds to the satisfaction of the Commissioner, Gurgaon Division, Gurgaon.

The petition is, accordingly, disposed of.

(T.P.S. MANN)
JUDGE

(GURMIT RAM)
JUDGE

December 18, 2015
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