

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRWP No.1003 of 2016 (O&M)
Date of Decision: November 10, 2016

Rahul @ Shashi Partap

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.V.S.Rana, Advocate
for the petitioner.

Mr.Vikas Chopra, Deputy Advocate General, Haryana
for the respondent-State.

Mr.Satyaveer Singh, Advocate
for the complainant.

INDERJIT SINGH, J.

The petitioner has filed this criminal writ petition under Article 226 of the Constitution of India for setting aside the impugned order dated 28.06.2016 passed by Commissioner Gurgaon, Division Gurgaon, whereby the parole of the petitioner was rejected.

Notice of motion was issued and learned State counsel as well as learned counsel for the complainant appeared and contested the petition. Reply was also filed by the State.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The perusal of the reply shows that present petitioner owns 4

kanals 5 marlas land. In the reply, the plea is also taken that convict is undergoing life imprisonment in case FIR No.414 dated 06.11.2004 under sections 302, 120-B, 109, 34 IPC and Section 25 of the Arms Act. He is also undergoing sentences in case FIR No.132 dated 16.03.2010 under Sections 8 and 9 of HGCP Act, FIR No.167 dated 07.03.2012 under Section 8 and 9 of the HGCP Act, FIR No.144 dated 20.03.2010 under Section 25 of the Arms Act and in case FIR No.258 dated 24.06.2012 under Section 3 and 25 of the Arms Act. It is also stated in the reply that convict is a habitual offender and has also jumped the parole earlier.

Learned counsel for the petitioner argued that considering all these facts, the petitioner has been granted parole in the year 2015. This fact is not contested by learned State counsel as well as learned counsel for the complainant, which means that registration of other FIRs or the jumping over the parole, is no ground to dismiss the parole application as these facts were also there when earlier parole was granted in the year 2015. Again, the ground that there is threat to complainant side if the petitioner is released on parole, is also no ground for rejecting the parole.

Learned counsel for the petitioner has cited judgment passed by this Court in *Satpal s/o Suban vs. State of Haryana and another, 1993(3) RCR (Criminal) 99*, in which the report of police is that opposite party apprehended danger and it is held that no ground is made to refuse the parole. The opposite party will always desire that convict remain behind the bars. On the similar point, learned counsel for the petitioner has relied upon the judgments passed by this Court in *Sahbia alias Rameshwar vs. State of Haryana, 1996(2) RCR (Criminal) 698* and *Mehoob vs. The State of*

(Criminal) 463. I have gone through all the above-cited judgments and the same fully apply to the facts of the present case. There is nothing at this stage to say that release of the petitioner on parole is danger to the State or breach of peace of the society.

In view of the above discussion, I find that the impugned order dated 28.06.2016 passed by Commissioner Gurgaon, Division Gurgaon, is not as per law and the same is set aside.

Therefore, finding merit in the present petition, the same is allowed. The competent authority/respondents are directed to re-consider the case of the petitioner in view of the findings given by this Court within six weeks from the receipt of certified copy of this order.

November 10, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No