

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

Crl. Writ Petition 1182 of 2016
Date of Decision : December 19, 2016

Sunder @ Kala

.....Petitioner

VERSUS

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE H.S.MADAAN**

Present : Mr. H.S.Jaswal, Advocate
for the petitioner.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

T.P.S. MANN, J.

This petition has been filed by convict Sunder @ Kala seeking quashing/setting aside of the order dated 16.6.2016 (Annexure P-3) passed by the Commissioner, Gurgaon Division, Gurgaon whereby his claim for grant of parole for four weeks for undertaking repair of his house stood rejected.

According to the petitioner, he was convicted in FIR No. 13 dated 27.1.2009 for commission of offences under Sections 395/397/120-B IPC and Section 25 of the Arms Act, registered at Police Station Sector-14, Panchkula. The trial Court

convicted him for the aforementioned offences and sentenced him to undergo imprisonment for ten years. He is undergoing the said sentence of imprisonment while being confined in the District Jail, Gurgaon and the appeal filed by him against his conviction and sentence stood admitted in this Court.

According to the petitioner, on 28.3.2016, he submitted an application to the Jail Superintendent requesting therein for grant of four weeks' parole for repairing his ancestral house. The said application was supported by the Panchayatnama dated 25.3.2016. The application was forwarded by the Jail Superintendent to the Commissioner, Gurgaon Division, Gurgaon as well as to the District Magistrate, Rohtak for conducting verification of the ground pleaded by him and for passing the final order. The District Magistrate got verified his plea through local police as per which, he is involved in twelve cases and his parents and two brothers can carry out the necessary repairs of his house. On the basis of the said report, the Commissioner, Gurgaon Division, Gurgaon vide order dated 16.6.2016 rejected his prayer for his release on parole. According to him, the concession of parole could not be denied to him unless the State Government or an Officer authorized by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order. As none

of the grounds exists, he deserves to be released on parole so as to repair his ancestral house. Further, the Panchayat had reported that in the event of his release on parole, there would be no breach of peace. He has two brothers but they are living separately whereas his parents are in advanced age.

Upon notice, reply has been filed by the Jail Superintendent on behalf of all the respondents stating therein that the petitioner was convicted and sentenced to undergo imprisonment for ten years in the above mentioned case i.e. FIR No. 13 dated 27.1.2009, Police Station Sector-14, Panchkula. He was admitted in the District Jail, Karnal on transfer from the District Jail, Gurgaon on 10.9.2016 and he is now confined and undergoing the imprisonment imposed upon him. It has also been stated that he also stood convicted in case FIR No. 232 dated 25.9.2003 under Sections 302/34 IPC and Section 25 of the Arms Act, Police Station Sampla, District Rohtak. Besides, he was also involved in seven other criminal cases, four out of which were under Section 302 IPC, though acquitted in all of them. It has also been stated that his parole case was initiated and forwarded to the District Magistrate, Rohtak for necessary verification and recommendation and to the Commissioner, Gurgaon Division, Gurgaon for consideration. The District Magistrate got conducted the enquiry through Superintendent of

Police, Rohtak, who vide his report dated 7.5.2016 did not recommend his release on parole. The District Magistrate, Rohtak vide report dated 19.5.2016 sent his specific report, agreeing with the report of the Superintendent of Police, Rohtak, to the Commissioner, Gurgaon Division, Gurgaon. The Commissioner rejected his parole case for house repair in view of the report of the District Magistrate, Rohtak vide order dated 16.6.2016.

The ground pleaded by the petitioner for being released on parole is that he wants to repair his ancestral house which is in bad condition. However, it has been found during verification that he has two brothers, one elder to him whereas the other younger, aged 45 years and 40 years, respectively. Further, though his father is aged 75 years and mother aged 70 years but his family members can manage to get the house repaired. It has also been observed that there is likelihood of breach of peace in the village on his release on parole. This fact is corroborated from the reply of the respondents wherein it has been stated that apart from two cases, one under Sections 397/395 IPC and the other under Section 302 IPC in which he stands convicted and sentenced to imprisonment, he was involved in seven other criminal cases including four under Section 302 IPC. Merely because he stands acquitted in all those

seven cases is no ground to release him on parole as his conduct is sufficient to conclude that in the event of his release on parole, there is apprehension of breach of peace in the village.

In view of the above, there is no merit in the present petition and the same is, accordingly, dismissed.

(T.P.S. MANN)
JUDGE

December 19, 2016
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(H.S.MADAAN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No