

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

213

Criminal Writ Petition No.1185 of 2016
Date of Decision: February 13th, 2017

Mukesh

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Randeep S. Dhull, Advocate
for the petitioner.

Mr. Ashok Muthreja, Deputy Advocate General, Haryana.

M. JEYAPPAUL, J. (ORAL)

Convict-Mukesh has challenged the rejection of his plea for furlough by the Commissioner of Police, Rohtak Division, Rohtak.

Writ petitioner is undergoing life sentence on conviction under Sections 302 and 201 read with Section 34 of the Indian Penal Code.

Heard the submissions made on either side.

The Jail Superintendent has, in fact, recommended for release of the petitioner on furlough considering his conduct in prison but on the basis of the report submitted by the Superintendent of Police, the plea for furlough was rejected by the Commissioner, Rohtak Division, Rohtak, on three grounds. The first ground is that the convict may have the propensity to commit similar crime; the second ground for rejection is that there was every possibility for the convict to abscond and the third ground is that his release may endanger the peace prevailing in the village.

It is a well settled legal position that the Competent Authority shall reject the parole or furlough, as the case may be, on certain grounds established *prima facie* by some proof.

It is not the case of the prosecution that the convict made an

produced to show that the convict will be inclined to abscond from justice. It is an admitted position that the convict has not committed any other crime. Under such circumstances, we are at a loss to understand as to how the Authority came to a conclusion that the convict may have a propensity to commit similar crime. Not even a scrap of paper was produced before the Court to come to a conclusion that the release of the petitioner would endanger the peace prevailing in the village. The Authority concerned cannot deny the parole or furlough sought for by the convict on some surmise.

In view of the above, we are of the considered view that the writ petitioner has made out a case for furlough.

Therefore, the Superintendent, District Jail, Jhajjar, is directed to release the convict-writ petitioner on furlough on 16.02.2017 at 10:00 AM for four weeks to the satisfaction of the District Magistrate, Bhiwani. Convict shall surrender before the Jail Superintendent, Jhajjar, on 17.03.2017 at 10:00 AM.

Writ petition stands disposed of accordingly.

(M. JEYAPPAUL)
JUDGE

February 13th, 2017
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No