

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

Crl. W.P. 1001 of 2017

Date of Decision : October 25, 2017

Satbir..... Petitioner

VERSUS

The State of Haryana and others..... Respondents

CORAM : HON'BLE MRS. JUSTICE LISA GILL

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Present: Ms. Sarla Chaudhry, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

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LISA GILL, J. (Oral)

The petitioner seeks the setting aside of order dated 08.08.2017 (Annexure P1) whereby his request for release on parole for agricultural purpose under Section 3(1)c of the Haryana Good Conduct Prisoner's Temporary Release Act, 1988 has been rejected. Petitioner's request has been rejected on the ground that the petitioner is undergoing imprisonment in a serious offence of rape, therefore, if released on parole he may not surrender in time and due to this peace in the village may be disturbed. Moreover, it is mentioned that the petitioner does not own any land therefore in view of the reports of the District Magistrate, Sonapat, Superintendent of Police, Sonapat, and Tehsildar Gohana the request of parole by the petitioner stands rejected.

Learned counsel for the petitioner submits that the petitioner's father is an owner of agricultural land in village Kalana Taluka, Mehmudpur, Tehsil Gohana. Reference is made to the Jamabandi (Annexure P3) of the year 2011-2012 pertaining to the said village. Moreover, there is no apprehension of breach of peace to the security of the State in case of release of the petitioner on parole. The petitioner, it is submitted has maintained good conduct in jail. Thus the petitioner's request for parole has been wrongly rejected.

I have heard learned counsel for the parties and have gone through the file.

The petitioner has been convicted for the offence punishable under Sections 376/506 IPC and sentenced to undergo rigorous imprisonment for 10 years. He has undergone about five and a half years of the sentence imposed upon him. There is no allegation of bad conduct of the petitioner.

A Division Bench of this Court in Crl. W.P. No. 554 of 2016, titled ***Ram Chander v. State of Punjab*** and others decided on 06.03.2017 has observed as under:-

“Therefore, release of a prisoner on parole can be declined in case his release on parole is likely to endanger the security of the State or the maintenance of public order. The recommendation made by the District Magistrate, Unnao (respondent No.3) for not releasing the petitioner on parole is merely that the petitioner is undergoing life imprisonment in a case like murder, so there is a probability that he may commit a crime on release on parole. The likelihood of committing a

crime while on parole would not be a sufficient ground to decline temporary release on parole as mere likelihood of committing crime is not to be taken as apprehension of a threat to the security of the State or the maintenance of public order. As already noticed, parole can be declined in case the competent authority is satisfied that his release is likely to endanger the security of the State and maintenance of public order.”

As per Annexure R1/T i.e. the report dated 25.06.2017 of the Superintendent of Police, Sonapat , it is specifically mentioned as under:-

“There is no apprehension of breach of peace to the State security if the prisoner is released, but the prisoner is undergoing imprisonment in a serious offence of rape. If parole is granted, he may not surrender and may abscond from parole. Due to this, there may be disturbance of public peace in the village. Therefore, the parole of the said convict Satbir is not recommended.”

There are no allegations of his release endangering the security of the State or maintenance of public order.

No such eventuality has been mentioned in this case, therefore, denial of parole is not justified. As per the report of the Tehsildar, Gohana, (Annexure R2/T) it is verified that the petitioner's father owns agricultural land measuring 18 Kanal 16 Marla in village Kalana Taluka, Mehmudpur and as per the Sarpanch and other villagers, the convict performs agricultural operations on his father's undivided agriculture land. The petitioner has attached report dated 22.08.2017 of the Gram Panchayat

Kelana Khas District Sonepat whereby a recommendation of the release of the petitioner on parole is made. It is further mentioned in the said report that there is no apprehension of breach of peace in the village if the petitioner is released on parole.

Keeping in view the facts and circumstances of the case, this criminal writ petition is allowed. Order dated 08.08.2017 passed by the Divisional Commissioner, Karnal, is set aside. The competent authority is directed to consider the case of the petitioner and pass necessary orders in accordance with law for temporary release of the petitioner on parole subject to his furnishing necessary surety to the satisfaction of the competent authority and undertaking to maintain peace and good behaviour during the period of parole and also surrender in the jail after expiry of his parole.

25.10.2017
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(LISA GILL)
JUDGE

Note: Whether speaking/reasoned

Yes / No

Whether Reportable:

Yes / No