

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

**CRWP No. 192 of 2017
Decided on : 16.05.2017**

Vinod @ Bintu

. . . Petitioner

Versus

State of Haryana and others

. . . Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

PRESENT: Ms. Sharmila Sharma, Advocate
for the petitioner.

Mr. Ashok Muthreja, DAG, Haryana.

AJAY KUMAR MITTAL, J. (Oral)

The petitioner is undergoing life imprisonment in case FIR No.428, dated 26.11.2011, under Sections 302/120B/34 IPC and Section 25 of the Arms Act, registered at Police Station Civil Line, Sonapat and is presently, confined in District Jail, Karnal. He has applied for 'furlough' for four weeks to meet his family members by way of present petition filed under Articles 226/227 of the Constitution of India read with Section 482 Cr.P.C. with Section 3(1) of the Haryana Good Conduct of Prisoners (Temporary Release) Act, 1988 (for brevity 'the Act').

2. It has been averred in the petition that the petitioner was convicted and sentenced to undergo imprisonment for life and was directed to pay fine of ₹ 5,000/-, in default of payment he had to further undergo imprisonment for a period of six months vide judgment and sentence dated 08th April, 2015. It has also been averred that against the aforesaid judgment of conviction, a criminal appeal (CRA-633-DB-2015) has been preferred before this Court, which stands admitted. Now, by way of present petition, a prayer has been made to release the petitioner on 'furlough' to meet his family members.

3. Learned counsel for the petitioner referred to Section 4 of the of the Act to claim that the petitioner can temporarily be released on 'furlough' on satisfying the condition mentioned therein. Section 4 of the

said Act reads thus:-

“4. (1) The State Government or any other officer authorized by it in this behalf may, in consultation with such other officer as may be appointed by the state Government, by notification, and subject to such conditions and in such manner as may be prescribed, release temporarily, on furlough, any prisoner who has been sentenced to a term of imprisonment of not less than four years and who-

(a) has, immediately before the date of his temporary release, undergone continuous imprisonment for a period of three years, inclusive of the persistence detention, if any;

(b) has not during such period committed any jail offence (except an offence punished by a warning) and has earned at least three annual good conduct remission;

provided that nothing herein shall apply to a prisoner who-

(i) is a habitual offender as defined in sub-section (3) of section 2 of Punjab Habitual Offenders (Control and Reform) Act, 1952; or

(ii) has been convicted of dacoit or such other offence as the State Government may, by notification, specify.

(2) The period of furlough for which a prisoner is eligible under subsection (1) shall be three weeks during the first year of his release and two weeks during each successive year thereafter.

(3) Subject to the provisions of clause (d) of sub-section (3) of section 8, the period of release referred to in sub-section (1) shall count towards the total period of the sentence undergone by a prisoner.”

4. It has been claimed by learned counsel for the petitioner that the petitioner was convicted and sentenced to undergo life imprisonment under Section 120-B IPC and to pay fine of ₹ 5,000/-, in default of payment of fine, he shall further undergo rigorous imprisonment for a period of six months. It has been urged by learned counsel for the petitioner that the petitioner was earlier released on parole for six weeks from 30th December, 2016 to 11th February, 2017 and after availing the said period of parole, he

had surrendered at Jail on 11th February, 2017.

5. Upon notice of motion having been issued, reply has been filed on behalf of the respondents. Though the claim of the petitioner has been denied, it was not disputed that the petitioner has been convicted and sentenced to undergo life imprisonment under Section 120-B IPC and to pay fine of ₹ 5,000/-, in default of payment of fine, he shall have to further undergo rigorous imprisonment for a period of six months. It has also been stated that the petitioner has undergone the sentence of 05 years, 03 months and 07 days of imprisonment in another case FIR No.143, dated 24.04.2017, under Sections 365/302/201/34 IPC, at Police Station Assandh, District Karnal. However, it was not disputed that the petitioner having been released on parole for six weeks from 30th December, 2016 till 11th February, 2017 was not involved in any criminal incident and after availing the said period of parole has surrendered at Jail on 11th February, 2017.

6. After hearing learned counsel for the parties and perusing the record, we set aside the order dated 07.07.2016 passed by the Commissioner, Rohtak Range, Rohtak and find that the case of the petitioner is covered under Section 4(I)(a) of the Act as the petitioner has undergone the continuous imprisonment of more than three years inclusive of the parole period in the FIR No.428, dated 26.11.2011 (FIR in question), as per the custody certificate (Annexure P-1).

7. Accordingly, the petitioner is ordered to be released on 'furlough' for three weeks from the date of his release to the satisfaction of Chief Judicial Magistrate, Sonapat.

(AJAY KUMAR MITTAL)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

May 16, 2017

J.Ram

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No