

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

**Criminal Writ Petition No.773 of 2017 (O&M)
Date of Decision: September 27, 2017**

Pankaj Sharma

.....PETITIONER(s).

VERSUS

State of Haryana and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vishal Nehra, Advocate
for the petitioner (s).

Mr. Deepak Grewal, D.A.G., Haryana.

SURINDER GUPTA, J.

This is Criminal Writ Petition under Article 226 of Constitution of India read with Section 482 Code of Criminal Procedure for setting aside order dated 06.06.2017 (Annexure P-1) passed by respondent No.3.

Heard.

Petitioner is convict in case bearing FIR No.339 dated 18.11.2004 registered at Police Station City Ambala for the offences punishable under Sections 302 and 201 of Indian Penal Code and undergoing sentence of life imprisonment.

The file produced by learned State counsel shows that petitioner was allowed furlough for a period of three weeks on 10.07.2012.

He was again allowed furlough for two weeks on two occasions w.e.f.

31.10.2014 and 03.02.2016. Petitioner was also allowed four weeks parole

w.e.f. 16.08.2013. On all the occasions, he surrendered on the expiry of period of parole/furlough. There is no report with the jail authorities or the police that during the period of parole/furlough, petitioner has misused the concession given to him.

The petitioner again applied for furlough vide application, which was declined to him by Commissioner, Ambala Division vide order dated 06.06.2017 (Annexure P-1) on the report of District Magistrate, which reads as follows:-

“Report has been taken from Superintendent of Police, Ambala regarding above cited subject of furlough of prisoner Pankaj Sharma S/o Nirampal Sharma. He has given report vide letter no.6202 dated 09.02.2017 that above prisoner is undergoing sentence in Central Jail, Ambala. Prisoner wants to go out on furlough. According to report of ASP Ambala and SHO Ambala City, prisoner will not come back to jail after being released on furlough. He will cause restlessness in colony. He can cause damage to murdered person's family. Hence, according to advice of Superintendent of Police, Ambala, it is not suggested that Pankaj Sharma S/o Nirampal Sharma should not be released on furlough.”

The above report, which is based on the report of Superintendent of Police, Ambala, appears to have no basis. There is nothing in report that petitioner when allowed furlough/parole in the year 2016 and on earlier occasions had caused threat/damage to family of the victim or any restlessness in the colony, as such, conclusion of competent authority has no basis that if released on furlough in the year 2017, he will indulge in such activities. Commissioner, Ambala Division while declining

the furlough to the petitioner has not even looked into this aspect. Such type of vague and sweeping conclusion arrived at by Commissioner, Ambala Division is without any basis or evidence on record.

Keeping in view the above facts, this petition is allowed. Impugned order dated 06.06.2017 passed by Commissioner, Ambala Division is set aside and the concerned authorities are directed to reconsider the case for grant of furlough to the petitioner within a period of two months of receipt of copy of this order.

September 27, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***