

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP No.932 of 2017 (O & M)
Date of decision: 16.08.2017

Suresh Kumar

....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Arjun Sheoran, Advocate for the petitioner.

Mr. Surinder Singh Pannu, DAG, Haryana
for the State.

S.S.SARON,J.

Learned counsel for the State has filed short reply by way of affidavit of Shri Rattan Singh, Superintendent, District Jail, Gurugram along with Annexures R-1 and R-2/T. The same are taken on record.

Another report of Shri Ramesh 509 MHC, Police Station Farrukh Nagar has also been filed, which is endorsed by the SHO, Police Station Farrukh Nagar. The same is also taken on record.

Heard learned counsel for the parties.

The petitioner who is undergoing life imprisonment after conviction in a criminal case has filed the present criminal writ petition seeking his temporary release on parole due to death of his father on 04.08.2017.

The petitioner has been convicted by the learned Additional Sessions Judge, Gurugram on 18.03.2017 in case FIR No.184 dated

18.07.2012 registered at Police Station Manesar, District Gurugram for the offences punishable under Sections 147, 148, 149, 452, 302, 307, 436, 323, 332, 353, 437, 114, 201, 120-B, 34, 381, 382 and 325 IPC. He has been convicted for the offences punishable under Sections 302, 307, 436, 427, 325, 452, 201, 120-B and 34 IPC on 18.03.2017.

CRA No.D-502-DB of 2017 titled 'Sandeep and others v. State of Haryana' against the said conviction and sentence is pending in this Court. The petitioner according to the Jail Custody Certificate dated 12.05.2017 (Annexure P1) has undergone actual imprisonment of four years, three months and two days till 12.05.2017.

The father of the petitioner unexpectedly died on 04.08.2017. The petitioner approached the jail authorities for his temporary release on parole. He was, however, verbally informed that he would not be granted parole as he was not eligible for the same on account of the less period of imprisonment that he has undergone after his conviction.

In terms of the reply that has been filed, it is submitted that the petitioner could not be released on parole as he has not completed one year of his imprisonment after conviction and has not earned his first annual good conduct remission under the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 ('Act' - for short), which is the condition provided for in terms of Rule 4 (1) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 ('Rules' - for short).

Shri Ramesh 509 MHC, Police Station Farrukh Nagar, conducted an inquiry at the house of Vinod Chaudhary of Chand

Nagar Mode, Farrukh Nagar, District Gurugram. According to his report, he contacted Vinod Chaudhary who stated that there was no other person of the name of Vinod and he had no connection with any Suresh Kumar (petitioner) and neither did he (Suresh Kumar) ever come to him.

According to the learned counsel for the petitioner, the petitioner is a resident of village Serhada, Police Station Rajund, District Kaithal from where verification has been conducted, which is attached as Annexure R2 with reply that has been filed. The petitioner was residing in the area of Gurugram as he was earlier employed in Maruti Udyog Limited and his services were thereafter terminated.

In response, learned counsel for the State has opposed the prayer of the petitioner for temporary release on parole. It is submitted that the petitioner has not completed one year of his imprisonment after conviction and has not earned his first annual good conduct remission under the Act, which is the requirement of Rule 4 (1) of the Rules.

We have given our thoughtful consideration to the matter.

As already noticed, the petitioner in the case has been convicted for the offences under Section 302 etc IPC. At present he is undergoing his life imprisonment. According to the custody certificate (Annexure P1), the petitioner has completed four years, three months and two days of imprisonment as on 12.05.2017. However, after his conviction, he has undergone imprisonment from 18.03.2017 to 12.05.2017 for a period of one month and twenty four days. Till date he has undergone another period of three months, which is less than one year imprisonment after conviction.

Therefore, the case of the petitioner for temporary release on parole is not being considered in view of Rule 4 (1) of the Rules, which enjoins that a prisoner shall be entitled to apply for parole only after he has completed his one year of imprisonment after conviction and has earned his first annual good conduct remission under the Act.

It may, however, be noticed that a perusal of the affidavit of Shri Rattan Singh, Superintendent, District Jail, Gurugram would show that as per Annexure R-2/T, a report has been submitted by Shri Ram Kumar, Administrative Officer, Police Station Rajund, District Kaithal. The said report is regarding emergency parole of the petitioner. It is mentioned that an enquiry was conducted by ASI Balwan Singh. The name and address of the petitioner Suresh Kumar son of Sewa Singh was found correct. According to the enquiry, petitioner Suresh Kumar was undergoing his life imprisonment at District Prison, Bhondsi, Gurugram in a murder case. Sewa Singh, father of the convict expired on 04.08.2017 due to illness. It is stated that in case the convict i.e. the petitioner was released on parole then the local police and villagers would have no objection.

Keeping in view the said report, the case of the petitioner is liable to be considered for his temporary release on parole. The provisions of Rule 4 (1) of the Rule would not come in the way as this Court in the case of Deepak v. State of Haryana and another, 2014 (4) RCR (Criminal) 531 has inter alia held that there is no restriction under the Act for temporary release and the Rules that have been framed are not to supersede the substantive provisions of the Act. The father of the petitioner has admittedly died and the petitioner has to perform his last rites.

Therefore, it would be just and expedient to release the petitioner on parole subject to his furnishing adequate surety and personal bond to the satisfaction of the learned District Magistrate, Kaithal.

Accordingly, the criminal writ petition is allowed and the petitioner on his furnishing personal bond and surety to the satisfaction of the learned District Magistrate, Kaithal shall be released on parole for a period of three weeks.

The learned District Magistrate, Kaithal shall mention the date on expiry of three weeks on which the petitioner shall surrender in jail.

(S.S. SARON)
JUDGE

(AVNEESH JHINGAN)
JUDGE

16.08.2017
A.Kaundal

Note:

1. Whether the order is speaking/reasoned: Yes
2. Whether the order is reportable : Yes