IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(203) **CRWP-839-2017**
Decided on: February 26, 2018.

Surat Mehta

.... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE GURVINDER SINGH GILL

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

Ms. Shubhra Singh, Addl. A.G., Haryana.

M.M.S. BEDI, J (ORAL)

The petitioner, through instant petition under Article 226/227 of the Constitution of India read with Section 4 (1) & (2) and Section 7 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, seeks furlough for a period of three weeks to meet his wife and children, claiming that he had filed an application on 27.01.2017 for grant of furlough to meet his wife and children but the same has not been decided by the respondents.

On notice having been sent to Advocate General, Haryana, a reply was filed by the Deputy Superintendent, District Jail, Rohtak that application of the petitioner was sent to the District Magistrate, Madhepura, Bihar and Commissioner, Rohtak Division for consideration and report but no specific recommendation has been received from District Magistrate Madhepura, Bihar by the Commissioner of Rohtak Division.

The petitioner had actually undergone sentence of 3 years, 9 months and 8 days in August, 2017. Vide order dated 19.09.2017, a report was called from District Magistrate, Madhepura, Bihar in context to the communication forwarded vide letter dated 27.01.2017 by the State

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authorities. A report has been sent by the District Magistrate Madhepura along with verification report of Superintendent of Police, Madhepura mentioning therein that general public of village Kanhwa Godhiari have told that petitioner's wife is not living in the village for the last 4-5 years and did not know about his illness as claimed by the petitioner. Petitioner is undergoing life imprisonment on the charge of murder of his brother and that there could be law and order problem in case he is released.

Counsel for the petitioner has relied upon a report of the Sarpanch of Gram Panchayat Lalganj, Wagewa and Tengraha, Block Saraigarh Bhoptiali, District Supol (Bihar) mentioning village and place of residence of wife and children of the petitioner i.e. Majhowa, Police Station Kishanpur, Post Office Murli District Supol, (Bihar).

It will not be appropriate for this Court to enter into the controversial questions of fact to determine the right of the petitioner for furlough.

On account of report having not been received from District Magistrate concerned in Bihar, petition for furlough has not been considered by Commissioner, Rohtak Division. We deem it appropriate to dispose of this petition, at this stage with a direction to consider the report of the Collector of the concerned area as well as report of Sarpanch dated 25.12.2016 (photocopy made available on record) and take a fresh decision regarding the claim of the petitioner for release on furlough as per the rules.

This petition is disposed of with a direction that the claim of the petitioner for furlough, in above said circumstances, will be considered and order will be communicated to the petitioner, fairly considering the legal parameters for furlough.

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It will be appreciated in case the decision is taken within a period of two months.

(M.M.S. BEDI)
JUDGE

February 26, 2018. **(GURVINDER SINGH GILL)**
harsha **JUDGE**

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No

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