

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

**CWP-17110-2018 (O&M)
Date of decision : 19.12.2018**

Sarfraj	 Petitioner
Versus	
State of Haryana and others	 Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Susheel Gautam, Advocate for the petitioner.

Mr. Sandeep Vashisth, DAG, Haryana.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Heard.

Petitioner seeks setting aside of the impugned order dated 4.6.2018, passed by the Commissioner Karnal Division, District Karnal (Annexure P-1), vide which furlough application of the petitioner was dismissed.

It comes out that petitioner was convicted and sentenced to undergo life imprisonment in a murder case vide order dated 31.8.2015, passed by learned Additional Sessions Judge, Panipat in case FIR No. 1528 dated 26.12.2013, under Sections 302 of the Indian Penal Code and 25 of the Arms Act, registered at Police Station City Panipat, District Panipat and the appeal i.e. *CRA-D-1509-DB-2015* titled as "*Sarfraj vs. State of Haryana*" against the said judgment of conviction and order of sentence is lying admitted before this Court and is yet to be decided.

Petitioner applied for furlough for three weeks under Section 4 (1) (a) of the Haryana Good Conduct Prisons (Temporary Release) Act, 1988 but the same has been declined vide impugned order on the ground that one case under Section 5/6/8 of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 and another case under Section 411 of the Indian Penal Code is pending against him in UP.

Impugned order dated 4.6.2018 (Annexure P-1) was passed on the basis of the recommendation of the District Magistrate Shamli (UP) who stated that prisoner is a crook and a person of criminal tendency and if he is released on parole there is strong chance of his absconding. Therefore, accepting the said recommendation of the District Magistrate Shamli (UP), Commissioner, Karnal Division Karnal rejected the plea of the petitioner for furlough.

As per the reply filed by the State, it comes out that the plea of the petitioner that earlier he was granted parole and returned within the time is not denied. The only ground is that the recommendation of the District Magistrate, Shamli (UP).

I am of the view that recommendation of the District Magistrate, Shamli (UP) were to be considered by the Commissioner, Karnal Division Karnal and were not binding upon him. Two cases against the present petitioner are not of very serious nature. The plea that he will abscond is falsified from the fact that petitioner was earlier released on parole and returned on time.

It is not claimed in the reply filed by the State that petitioner is otherwise not entitled for furlough which he is to avail on account of his good conduct in the jail.

It being so, present petition is allowed and the impugned order dated dated 4.6.2018, passed by the Commissioner Karnal Division, District Karnal (Annexure P-1) is set aside. Petitioner is ordered to be released on furlough for three weeks on furnishing surety bonds to the satisfaction of District Magistrate concerned.

Petition stands allowed accordingly.

(KULDIP SINGH)
JUDGE

19.12.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No