

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

CWP-23470-2018 (O&M)

Date of decision : 27.11.2018

Deepak Dankhar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. R. S. Dhull, Advocate for the petitioner.

Mr. Nishchal Mann, 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 has challenged the order dated 5.6.2018 (Annexure P-1), passed by the Commissioner, Karnal Division Karnal vide which application of the petitioner for grant of furlough to meet his family members under Section 4 (1) (a) (b), (2), 6 and 7 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 was declined.

Petitioner was convicted in case FIR No. 89 dated 29.4.2010 under Section 148, 149, 302 read with Section 34 and 120-B of the Indian Penal Code, registered at Police Station Mullana, District Ambala and sentenced to undergo rigorous imprisonment for life by the then Additional Sessions Judge, Ambala vide judgment of conviction and order of sentence dated 14.7.2014.

Petitioner moved an application before the Superintendent District Jail, Karnal for furlough to meet his family members on account of his good conduct in jail. His application for furlough has been declined on the ground that FIR No. 278 dated 15.6.2013 under Section 42 of the Prisons Act and under Sections 188, 120-B of the Indian Penal Code, Police Station Baldev Nagar, Ambala and another FIR No. 42 dated 5.3.2010 under Sections 148, 149, 323, 325, 452 of the Indian Penal Code, Police Station Mullana, District Ambala are pending against the petitioner. The second FIR is before the conviction of the petitioner and the first FIR is under the Prison Act for which the petitioner is required to be tried separately and punished, if the guilt is proved. Further, ground taken in the order is that he has committed the heinous crime like murder and if he is released on furlough there is an apprehension that he may abscond, due to which peaceful environment of village may be disturbed.

State in its reply dated 9.10.2018 has taken a stand that there is no threat to the security of the State. State has also referred four cases in which the petitioner has been acquitted. Said FIR was registered from the year 2010-2012 which was again before the passing of the judgment in the present murder case.

I am of the view that there is no apprehension of breach of security of the State. The mere ground that there is a possibility of absconding is just the apprehension in the mind of the authority which is not based on any evidence or reasoning.

Mere fact that one is convicted for murdered does not mean that he will abscond if he is released on parole. If the State has such

apprehension it can always impose adequate conditions while releasing the petitioner on furlough.

In view of the matter, present petition is allowed and the order dated 5.6.2018 (Annexure P-1), passed by Commissioner, Karnal Division, Karnal is set aside and the petitioner is ordered to be released on furlough for three weeks to meet his family members subject to furnishing of surety and the conditions that may be imposed by the District Magistrate, Sonapat.

Disposed of.

(KULDIP SINGH)
JUDGE

27.11.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No