

261
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25999-2018 (O&M)
Date of decision : 10.12.2018

Gagan Kumar

..... 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)

Petitioner has impugned the order dated 24.8.2018 (Annexure P-1), passed by the Commissioner, Karnal Division, District Karnal, vide which prayer of the petitioner for grant of furlough for three weeks was disallowed.

Heard.

Petitioner is undergoing life imprisonment in two separate cases i.e. one murder case and other is of kidnapping. Petitioner has earlier availed four weeks parole from 15.4.2017 to 14.5.2017 and reported to jail in time.

State in its reply has taken the stand that there were 08 cases registered against the petitioner. The report has been submitted by Superintendent of Prison, District Prison, Kurukshetra opposing the release of the petitioner on furlough on account of criminal history of the petitioner. Therefore, parole was declined in public interest and public order in terms of Section 6 of the Haryana Good Conduct Prisoners (Temporary Release)

Act, 1988 (for short 'the Act').

It further comes out from the reply that petitioner has undergone actual sentence of 10 years 6 months and 21 days. State in its reply has not denied the earlier parole availed by the petitioner in the year 2017. It is nowhere stated in the reply that conduct of the petitioner while in jail is not good. Once, he has availed good conduct report and has undergone requisite sentence, he is entitled to furlough. However, the State has declined the same on the ground of criminal history. FIRs registered against the petitioner mentioned in the reply show that the same pertain to the period between 2005-2009. Petitioner was convicted in the murder case on 29.11.2010 in the first FIR No. 566 which was registered on 10.11.2005 and the second FIR nol. 39 regarding kidnapping was registered on 9.3.2008 under Sections 364-A/34/377 of the Indian Penal Code and under Section 25-54-59 of the Arms Act, registered at Police Station, Thanesar, District Kurukshetra.

I am of the view that once it is found that the petitioner has not misused the previous parole and reported back on time and his conduct is good, merely because of criminal history, before his being admitted to jail, he cannot be declined the benefit of furlough particularly when earlier he was released on parole.

Considering the same facts that he has not misused the benefit of parole, impugned order dated 24.8.2018 (Annexure P-1), passed by the Commissioner, Karnal Division, District Karnal is hereby quashed and petitioner is ordered to be released on furlough for three weeks under

Section 4(1) (a) of the Act on his furnishing surety to the satisfaction of the District Magistrate concerned.

In view of above, petition stands allowed.

(KULDIP SINGH)
JUDGE

10.12.2018
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Whether speaking / reasoned	Yes
Whether Reportable:	No