

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

**CWP-2428 of 2019(O&M)
Date of Decision:21.08.2019**

Vikas

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present : Mr. Krishan Singh, Advocate
for the petitioner.

Mr. Sandeep Vashisht, D.A.G. Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. Prayer in this petition is for a writ in the nature of certiorari for quashing the impugned order dated 03.01.2019 (P-1) passed by the Commissioner, Hissar Division, Hissar whereby benefit of furlough to the petitioner has been denied and also a consequential prayer is made for issuance of a writ in the nature of mandamus directing the respondents to grant the benefit of furlough to the petitioner for a period of three weeks as he entitled to the same under the rules.

2. The petitioner has been convicted under Section 302, 148, 149 IPC and 25 & 27 of the Arms Act in FIR No.619 dated 22.07.1998, registered at Police Station City Sirsa. Criminal appeal against the said conviction order has also been dismissed by this Court.

3. The application of the petitioner for furlough was rejected on the ground that there is apprehension of breach of peace in the village. The petitioner is a criminal type of person and may abscond if released on furlough. Earlier the petitioner had jumped the parole period twice. The grounds of rejection have been reiterated in the written statement. The past history of criminal cases has been recorded in the written statement i.e. five

different FIRs for the period from November, 1994 to February 2003 were registered under various Sections. However, in all the five cases the petitioner has been acquitted.

4. There is no report in the impugned order that the release of the petitioner on furlough would involve security of the State or danger to society. Mere breach of peace is not sufficient to deny furlough. As per the custody certificate, the petitioner has already undergone as on 23.08.2018 total period of custody 07 years, 03 months and 09 days, of which 04 years 07 months and 27 days under trial and 03 years 11 months and 15 days is after conviction period. The petitioner was convicted on 03.04.2003 by the Court of learned Additional Sessions Judge, Sirsa.

5. Purpose of parole and furlough is to provide some sympathetic approach towards those who are lodged in jails. The main purpose of such provision is to afford some time to the prisoners to solve their family problems and to enable them to make their links with civil society. The legitimate right of such prisoners should be considered and accorded. In this regard, reliance is placed on the observations in the judgment of the Supreme Court rendered in the case of Asfaq v. State of Rajasthan and others; AIR 2017 SC 4986.

6. In a number of cases, this Court has held that mere apprehension of breach of peace is no ground to deny parole/furlough to a prisoner. The object of sentencing is not just to punish but also to reform. The purpose and object of granting parole/furlough is to enable an inmate to maintain continuity with his family life and deal with family matters.

7. In view of the above, the petition is allowed. The impugned order dated 26.12.2018 (P-1) is quashed. The petitioner is granted furlough for three weeks from the date of release to the satisfaction of the District Magistrate concerned, who is further directed to impose such conditions as

may be required to secure the presence of the petitioner in jail after the period of furlough, is over and done with.

21.08.2019
sandeep

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No