

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 16.09.2019****CWP No.4235 of 2019**

Mukesh Kumar

...Petitioner

Vs.

The State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

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

Mr. Kapil Bansal, DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

1. The prayer in the present petition is for setting aside the order dated 16.04.2018 (Annex P-1) passed by the Commissioner, Karnal Division, Karnal, whereby the request of the petitioner for releasing him on parole for repair of house has been declined.

2. The petitioner was convicted and sentenced vide judgment of conviction and order of sentence dated 29.09.2010/30.09.2010 to undergo rigorous imprisonment for life under Sections 302/307/394/397/34 IPC and 25 of the Arms Act in case FIR No.156 dated 08.07.2009 registered at Police Station Sadar, Panipat.

3. Though replies on behalf of respondents have already been filed, but pursuant to a query; as to whether house of the petitioner needs repairs, Mr. Bansal has filed a status report on behalf of the Superintendent

of Prison, District Prison, Karnal along with photographs, which is taken on record. The relevant extract from the report reads as follows:

“2. That as per the report of Sub-Divisional Engineer, Provincial Sub Division No.III, PWD (B&R) Branch, Panipat the roof of the house of accused Mukesh Kumar is of wooden logs and out of which some logs are damaged by the termite at the edges of the wall. Apart from this, some corners of the wall of the house have developed cracks and some wooden logs are twisted downwards in the middle. During the rains, there is seepage of water in the house. Hence, the house needs repair. The report of the Sub-Divisional engineer, Provincial Sub-Division No.III, PWD (B&R) along with ten (10) nos. photographs of the house of the convict duly signed by the said officer are annexed as Annexure R-1.”

4. However, learned Law Officer submits that the petitioner is a habitual offender and except the present case, there are many cases registered against him. He further submits that if the petitioner is released on parole, he is likely to misuse the concession and can spread unrest in the village.

5. Having heard learned counsel for the parties and keeping in view the report filed today to the effect that the petitioner's house needs major repair, I am of the view that this is not a case in which parole should be denied to the petitioner. The parole can be granted for the house repair and to socialize the convict with his family members and the society. No doubt, no person is entitled to be released under the Act and the release of a prisoner on parole can be declined in case his release on parole is likely to endanger the security of the State or the maintenance of public order. The only ground taken is that if the petitioner is released on parole, there is possibility that he may abscond and may be involved in some other offence.

To allay the apprehension, adequate conditions can be imposed on him and his conduct can be kept under watch in case parole is granted. It has not been reported that the conduct of the petitioner in jail is not satisfactory and his reports in the jail are not good. Thus, my view is that the benefit of temporary release by way of parole is admissible.

6. In view thereof, the petition is allowed and the impugned order dated 16.04.2018 is set aside. Petitioner is ordered to be released on parole for four 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 in the Jail Manual toward the ends of securing the presence of the petitioner in jail after the period of parole is over and done with and the temporary release is not misused.

7. Petition stands allowed accordingly.

16.09.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
Yes/No