

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

CWP No. 3993 of 2019

Date of Decision: 09.09.2019

Ravi @ Sittu

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

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

Mr. Saurabh Mohunta, 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 02.02.2019 (P-1) passed by the Commissioner, Karnal Division, Karnal whereby benefit of furlough to the petitioner has been denied and it is also prayed that a writ in the nature of mandamus be issued directing the respondents to grant the benefit of furlough to the petitioner for a period of three weeks to meet his family in view of Section 41(a) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988.

2. The petitioner has been convicted under Section 148, 149, 323, 302, 506 IPC and Sections 25, 54 & 59 of the Arms Act in FIR No.780 dated 23.10.2015, registered at Police Station Sadar Karnal. No criminal appeal against the said conviction order has been filed by the petitioner.

3. The application of the petitioner for furlough was rejected on the

ground that possibility of breach of peace in village cannot be ruled out in case the petitioner is released on furlough. The local police has not recommended furlough to the petitioner to meet his family. The past history of criminal cases has been recorded in the impugned order i.e. four different FIRs for the period from October, 2010 to February, 2012 were registered under various Sections of IPC and Arms Act. The grounds of rejection have been reiterated in the written statement.

4. There is no report in the impugned order that the release of the petitioner on furlough would involve breach of the security of the State or he would pose a danger to society. Mere apprehension of breach of peace is not sufficient reason to deny furlough. The apprehension must be real expressed in writing. As per status report dated 23.07.2019 submitted by the Superintendent of Prison, District Prison, Karnal, two cases are pending trial and in one case the petitioner has already been acquitted. The Gram Panchayat has also strongly recommended the case of the petitioner for furlough certifying that there is no apprehension of breach of peace if he may be released on furlough. The view of the Gram Panchayat is a sounding board clearly in favour of the petitioner as it intimately reflects the voice of the community the petitioner belongs to and where he has been reared. Proof of which has been placed on record as Annexure P-2.

5. Purpose of parole and furlough is to provide some sympathetic approach towards those who are lodged in jails and are broken in spirit with the monotony and humdrum of relentless jail life. It helps them to reform and to reacclimatize to the future event of release from jail. They would also

learn how the community treats them as jailbirds. The main purpose of such provision is also to afford some time to the prisoners to solve their family problems and to enable them to make their link with society. The legitimate right of such prisoners should be accorded from time to time when the sentence to be served is long and dreary. 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. Having regard to the fact that there is no complaint against the petitioner in jail, his conduct in jail is satisfactory & his reports are good and taking into account the aforesaid relevant consideration, it is deemed appropriate to grant the benefit of furlough to the petitioner for a period of three weeks.

7. In view of the above, the petition is allowed. The impugned order dated 02.02.2019 (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 in the Jail Manual toward the ends of securing the presence of the petitioner in jail after the period of furlough, is over and done with and the temporary release is not misused.

8. Ordered accordingly.

(RAJIV NARAIN RAINA)
JUDGE

09.09.2019

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No