

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

**CWP No.5492 of 2019
Date of Decision:11.09.2019**

Narender

... Petitioner

Vs.

State of Haryana and another

... Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

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

Mr. Kapil Bansal, D.A.G. Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. Through this petition, the petitioner has sought a writ in the nature of certiorari for quashing the order dated 25.01.2019 (P-5) passed by respondent No.2 whereby benefit of parole to the petitioner has been denied. It is prayed consequentially that a writ of mandamus be issued directing the respondents to grant the benefit of parole to the petitioner for a period of six weeks for agricultural purposes.

2. The petitioner was convicted and sentenced to undergo rigorous imprisonment for life under Sections 302, 452, 120-B, 148, 149, 323, 216 IPC and Section 25, 54 & 59 of the Arms Act in case FIR No.590 dated 03.10.2008 registered at Police Station, Jhajjar, District Jhajjar. Criminal appeal filed by the petitioner against his conviction is pending in this Court.

3. Learned counsel for the petitioner submits that the petitioner has wife and an aged mother in his family and his brother is also undergoing imprisonment in District Jail, Jhajjar. There is no male member in the family who can provide help for agricultural purposes. It is also apprised that the petitioner has already undergone more than 10 years of imprisonment during trial and after his conviction.

4. Learned counsel further submits that the petitioner has availed the benefit of parole/furlough five times earlier for different purposes and he surrendered at jail in time except one time when he failed to surrender on the stipulated date due to circumstances beyond his control.

5. Perusal of the impugned order shows that the case of the petitioner has been rejected only on the ground that the petitioner has overstayed more than 10 days of furlough period in the year 2015, thus he falls under the category of a “Hardcore Prisoner”. In reply also the ground for rejection of request of the petitioner has been reiterated.

6. Having heard learned counsel for the parties, I am of the view that this is not a case in which parole should be denied to the petitioner for agricultural operations. The only ground taken is that the petitioner has overstayed the period of furlough when he was temporarily released from 30.10.2015 to 14.11.2015. The petitioner has been acquitted in the case filed against him for overstaying the furlough period vide order dated 18.04.2018 passed by the Judicial Magistrate, 1st Class, Jhajjar while holding that the petitioner could not surrender in time because he was undergoing medical treatment for Allergic Bronchitis. Moreover, he himself surrendered in jail though after overstaying a period 2 months & 24 days.

7. In view of the above, the petition is allowed. The impugned order dated 25.01.2019 (P-1) is quashed. The petitioner is granted parole for six 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.

8. Ordered accordingly.

(RAJIV NARAIN RAINA)
JUDGE

11.09.2019
sandeep