

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

CWP No. 5702 of 2019

Date of Decision: 10.09.2019

Sandeep

...Petitioner

Vs.

State of Haryana and others

...Respondents

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

Present: Mr. A.S.Trikha, Advocate
for the petitioner.

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

RAJIV NARAIN RAINA, J. (Oral)

1. Prayer in this petition is for setting aside the impugned orders dated 05.07.2018 (P-1) passed by the Commissioner, Rohtak Division, Rohtak and 26.12.2018 (P-2) passed by the Divisional Commissioner, Hissar Division, Hissar whereby benefit of furlough to the petitioner has been denied and it is also prayed that the petitioner be granted the benefit of furlough for a period of three weeks to meet his family members in view of Section 4(1)(a) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988.

2. The petitioner has been convicted and sentenced to undergo life imprisonment under Sections 302, 120-B, 148, 149 IPC and Section 25 of the Arms Act in FIR No.28 dated 19.03.2014, registered at Police Station Behal, District Bhiwani. Criminal appeal against the said conviction order filed by the petitioner is pending in this Court.

3. The application of the petitioner for furlough was recommended by the Superintendent of Jail, Rohtak and the District Magistrate, Bhiwani. But the Commissioner, Rohtak Division, Rohtak vide order dated 05.07.2018 (P-1) while accepting the report of the Superintendent of Police, Bhiwani rejected the case of the petitioner on the ground that in case the petitioner is released he may jump over furlough and possibility of breach of peace also cannot be ruled out. Meanwhile, the petitioner was transferred to Central Jail, Hissar-II. The application of the petitioner for furlough was again recommended by the Superintendent of Jail, Hissar but the same was not recommended by the District Magistrate, Bhiwani and the Superintendent of Police, Bhiwani on the ground that if the petitioner is released on furlough it may cause tension in the village because the opposite party is in a revengeful mood. The Divisional Commissioner, Hissar Division, Hissar rejected the case of the petitioner vide order dated 26.12.2018 (P-2). The grounds of rejection have been reiterated in the written statement.

4. There is no report in the impugned order or in the written statement 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. The Gram Panchayat while taking its responsibility has 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-3. Learned counsel for the petitioner also submits that the main accused was granted the benefit of parole earlier.

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 that the case of the petitioner was initially recommended by the Superintendent of Jail, Rohtak & the District Magistrate, Bhiwani and then by the Superintendent of Jail, Hissar and the fact that parole was earlier granted to the main accused, 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 orders dated 05.07.2018 (P-1) and 26.12.2018 (P-2) are 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

10.09.2019
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No