

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

CWP-8549-2019 (O&M)

Date of decision : 16.7.2019

Karambir

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Ms. Sarla Chaudhary, Advocate for the petitioner.

Mr. Sandeep Vashisth, DAG, Haryana.

KULDIP SINGH, J.

Petitioner has challenged the order dated 20.10.2018 passed by Divisional Commissioner, Rohtak (Annexure P-1) vide which prayer of the petitioner for agricultural parole for 42 days was declined.

Facts of the case are that the petitioner was convicted and sentenced to undergo life imprisonment under Section 302/34 of the Indian Penal Code and Section 25 of the Arms Act in case FIR No. 75 dated 13.2.2013, registered at Police Station Jhajjar vide order dated 31.3.2015, passed by learned Additional Sessions Judge, Jhajjar.

The aforesaid impugned order dated 20.10.2018 (Annexure P-1) shows that District Magistrate, Jhajjar had recommended the case of the petitioner for parole but the Superintendent of Police, Jhajjar had reported that petitioner has got criminal history. Reference is made to one case registered under Sections 148, 149 323, 452, 506 of the Indian Penal Code and Sections 25, 24, 59 of the Arms Act in which he is stated to be on bail. The Divisional Commissioner, Rohtak is of the view

that petitioner is habitual criminal and if he is released on parole there is an apprehension of breach of peace. Further the ground taken is that there is only one acre of land which he has given to his brother for doing agricultural work.

Reply dated 23.5.2019, filed by the State shows that petitioner has availed furlough/parole as under: -

<i>Sr. No.</i>	<i>Leave Details</i>	<i>Days</i>	<i>Date from</i>	<i>Date to</i>	<i>Remarks</i>
1	Furlough	10	19 th Oct, 2017	29 th Oct, 2017	Surrendered on time
2	Agricultural parole	42	5 th June 2017	18 th July 2017	-do-
3	Furlough	21	20 th Dec 2016	5 th Jan, 2017	-do-
4	House Repair Parole	28	28 th Sep 2016	27 th Oct, 2016	-do-
5	Agricultural parole	42	1 st Jun, 2016	14 th July 2016	-do-

It goes to show that the grounds taken in the impugned order dated 20.10.2018 passed by Divisional Commissioner, Rohtak (Annexure P-1) are not sustainable in the eyes of law. Earlier twice the agricultural parole was granted to the petitioner for the same land. If the petitioner in jail, naturally his land will be cultivated by one or the other family member. The conduct of the petitioner shows that he has been surrendering on time. It is also not reported that the conduct of the petitioner in jail is not satisfactory and his reports in the jail are not good.

It being so, the apprehension of breach of peace is just imaginary and the ground that one acre land is being cultivated by the brother is not sustainable in the eyes of law. As such, the impugned order dated 20.10.2018 passed by Divisional Commissioner, Rohtak (Annexure P-

1) is set aside and the petitioner is ordered to be released on parole under Section 3(1) (c) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, subject to his furnishing adequate surety to the satisfaction of the District Magistrate concerned.

Petition stands allowed accordingly.

(KULDIP SINGH)
JUDGE

16.7.2019
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No