

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 22.08.2019****CWP No.18104 of 2019**

Suresh @ Tangu

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Pawan Kumar Hooda, Advocate, for the petitioner.

Mr. Sourabh Mohunta, DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

1. This petition has been filed challenging the order dated 25.06.2019 passed by the Superintendent, District Jail, Yamuna Nagar. by which request of the petitioner for grant of parole for agricultural purposes was declined.

2. The petitioner was convicted and sentenced to undergo life imprisonment under Section 302/307/148/149/120B/216 IPC and Section 25 of the Arms Act in case FIR No.224 dated 17.10.2011, registered at Police Station Kurukshetra University, Kurukshetra vide order dated 20.01.2015 passed by Additional Sessions Judge, Kurukshetra.

3. A perusal of the impugned order dated 25.06.2019 as well as the reply filed by the State shows that several FIRs have been registered against the petitioner under different sections and at different Police Stations. It has been further stated that the convict is also facing trial in case

FIR No.255 dated 10.06.2018 under Sections 323/365/506/34 IPC, Police Station Sadar Tohana, which was registered against him while he was on parole for house repair from 10.05.2018 to 22.06.2018 and, thus, has committed an offence and violated the parole rules.

4. Having heard Mr. Hooda and Mr. Mohunta, I am of the view that State in its reply does not say that the petitioner is a hardcore prisoner or that there is apprehension that petitioner will abscond. No doubt, no person is entitled to be released under the Act, but 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 observation recorded in the impugned order for not releasing the petitioner on parole is merely that he is undergoing life imprisonment and is involved in many cases. The parole can be declined in case the competent authority is satisfied that his release is likely to endanger the security of the State and maintenance of public order. No such eventuality has been mentioned neither in the reply nor in the arguments raised by learned State counsel. The only ground taken is that he is involved in many criminal cases, but as per para 5 of the reply in most of the cases he has been acquitted. No doubt, the petitioner is facing trial in three cases, but a presumption of innocence is available to him. It is a fundamental principle of criminal jurisprudence that every person accused of an offence is presumed to be innocent unless he is proved guilty and convicted of the charges that are alleged against him. 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. It has also come on record that the petitioner has 06 Kanal and 07 Marlas of agricultural land in his name as per the verification report of the Superintendent of Police, Jind.

There is no male member for carrying on agricultural operations for earning livelihood for his aged widowed mother.

5. In view thereof, the petition is allowed and the impugned order dated 25.06.2019 is set aside. Petitioner is ordered to be released on parole for four weeks for agricultural purpose on furnishing adequate surety to the satisfaction of the District Magistrate concerned. It shall be open to the State to impose adequate condition/s to ensure that the petitioner does not indulge in any crime during parole.

6. Petition stands allowed accordingly.

22.08.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No