

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 02.09.2019****CWP No.18798 of 2019**

Surender

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Sanjeev Majra, Advocate, for the petitioner.

Mr. Sourabh Mohunta, DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

1. This petition has been filed challenging the order dated 20.08.2018 passed by the Commissioner, Rohtak Division, Rohtak by which request of the petitioner for grant of parole for agricultural purposes was declined.

2. The petitioner is undergoing life imprisonment under Section 302/120-B IPC and Section 25 of the Arms Act in case FIR No.100 dated 04.09.2007, registered at Police Station Loharu, District Bhiwani pursuant to the judgment of conviction and order of sentenced rendered by the Additional Sessions Judge, Bhiwani. The appeal bearing CRA No.1150-DB of 2010 preferred by the petitioner stands dismissed by this Court on 05.04.2019.

3. A perusal of the impugned order dated 20.08.2018 shows that during his release on last parole i.e. from 09.03.2017 to 07.04.2017, FIR No.63 of 2017 was registered against him, which proves that he is a habitual offender. Thus, there is possibility that he may commit heinous crime; may abstain from parole and peace of the village can be disturbed.

4. Having heard learned counsel for the parties and after going through the case file carefully, I am of the view that State in its reply does not say that the

petitioner is a hardcore prisoner. No doubt, no person is entitled to be released under the Act and 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. To allay the apprehension, adequate conditions can be imposed on him and his conduct can be kept under watch in case parole is granted. However, no such eventuality has been mentioned neither in the reply nor in the arguments raised by learned State counsel. The observation recorded in the impugned order for not releasing the petitioner on parole is merely that during his last parole, FIR No.63 of 2017 was registered against him, but as per reply filed by way of affidavit of Sewa Singh, Deputy Superintendent, District Jail, Rohtak, the petitioner was acquitted in that case. 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.

5. In view thereof, the petition is allowed and the impugned order dated 20.08.2018 is set aside. Petitioner is ordered to be released on 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.

02.09.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*