

HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-23233 of 2018 (O&M)
Date of decision: 31.01.2019

Ranbir @ Kaka

...Petitioner

Versus

State of Haryana and others

..Respondents

CORAM:HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

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

Mr. Tanu Shree Gupta, DAG, Haryana.

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HARINDER SINGH SIDHU, J.

The petitioner has filed the present petition impugning the order dated 5th July 2018 passed by the Commisioner Karnal Division Karnal rejecting his application for release on parole.

The petitioner after his conviction vide judgment dated 22.10.2007 in FIR No.189 dated 19.06.2004 under Sections 302 and 307 IPC registered at Police Station City Ambala is undergoing life imprisonment. His appeal bearing CRA-D-411-DB-2007 has been dismissed.

He applied for parole for the purpose of house repair. It was his case that the house was in deplorable condition and his aged parents are not in a position to get it repaired. Though his case was recommended by the District Magistrate, Ambala, however vide order dated 05.07.2008 his application was rejected by the Commissioner, Karnal Division, Karnal.

Reply has been filed on behalf of respondent Nos. 1 to 4 stating that the petitioner was convicted on 22.10.2007. During the pendency the appeal his sentence was suspended and he was released on bail on 21.09.2010. He was

however re-admitted to Jail on 31.10.2012 on dismissal of his criminal appeal by this Court. The petition is presently undergoing the remaining portion of sentence in District Jail, Karnal. It is further stated that the petitioner is involved in four criminal cases, which are as follows:-

Sr. No.	FIR No./dated	Under Section	Police Station	Status
1.	322/2012	188 & 42 of Prison Act.	Baldev Nagar Ambala	Convicted
2.	111/2003	392/394 IPC	Ambala Cantt	On bail
3.	239/2012	387/447/506/34 IPC	Mahesh Nagar	Acquitted
4.	183/25.08.2012	395 IPC	Chandi Mandir Panchkula	Acquitted

The application for parole submitted by the petitioner was recommended by the District Magistrate, Ambala. However, the Commissioner, Karnal Division, Karnal vide order dated 05.07.2018 rejected the claim of the petitioner on the ground that the family members were residing in the house and they were capable of repairing the same. It was also noticed that the petitioner has a criminal history and is involved in various criminal activities and is thus a habitual criminal.

Heard Ld. Counsel for the parties.

In the report of the District Magistrate dated 23.04.2018 it has been mentioned that the petitioner has completed 10 years one month and 5 days sentence as on 02.11.2017. He has earned 4th Annual Good Conduct Report on 1.11.2016. This is his first case for release on parole. As per report of the SDO (C) dated 9.2.2018 there are two rooms in the share of the petitioner which are in deleterious condition. After due site verification it was found that both the rooms needed repair. As per a subsequent report of the SDO (C) dated 04.04.2018 the parents of the petitioner are old and not capable of getting the house repair done.

All the brothers of the petitioner reside separately. Consequently his case for release on parole for purpose of house repair was recommended.

This report thus depicts that the ground for release for house repair is justified and there was no basis for rejecting it on the ground that his family members are capable of getting the same repaired.

As regards the involvement of the petitioner in various criminal activities, out of the four cases registered against him he has been acquitted in two cases. In one case he is on bail and in one other case he has been convicted for the sentence already undergone by him.

Thus both the grounds for rejecting the parole case of the petitioner are not sustainable.

Accordingly this petition is allowed. The impugned order dated 05.07.2018 of Commissioner, Karnal Divisional Karnal is quashed. The petitioner is directed to be released on parole for a period of four weeks on his furnishing surety bonds to the satisfaction of the District Magistrate, Ambala. He is also directed to surrender before the Jail Authorities after the expiry of the said period.

January 31, 2019
dinesh/atul

(Harinder Singh Sidhu)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes/
Yes/No