

CWP-23891-2018

[1]

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

**CWP No.23891 of 2018 (O&M)
Date of decision: March 08, 2019**

Chhotu Ram

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Ms. Naina Issar, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

HARINDER SINGH SIDHU, J.

This petition has been filed praying for directions to quash the order of the Commissioner, Rohtak Division, Rohtak dated 03.04.2017 (Annexure P-1) whereby the application of the petitioner for release on furlough has been rejected. It has also been prayed that the respondents be directed to release the petitioner on furlough.

The petitioner is undergoing rigorous imprisonment for life in case FIR No.320 dated 30.06.2013 under Sections 302/34 IPC, Police Station Samalkha, District Panipat after his conviction by the Sessions Judge, Panipat. His appeal is pending before this Court.

The petitioner submitted an application to the Superintendent, District Jail Karnal for his release on furlough to meet his family members, which was forwarded to Commissioner, Rohtak Division, Rohtak – respondent No.2. He sought reports from the District Magistrate Panipat and Superintendent of Police,

Panipat. According to the report received there is danger to the public order and

security of State upon the petitioner being released on furlough. The family members of the petitioner are still having dispute with the family of the deceased. Further, the impugned order stated that there is no possibility of the petitioner going back to the jail. Accordingly, the request for furlough was rejected.

The impugned order declining furlough to the petitioner cannot sustain as the grounds mentioned therein are not made out in the facts of this case.

As regards the ground that there would be danger to security of State and maintenance of public order if the petitioner is released all that needs to be said is that no material in support thereof has been brought on record by the respondents. It has been held by a Division Bench of this Court in **Jassa Singh Vs. State of Punjab** 2016(1) Law Herald 587 that for reaching the satisfaction of danger to the security of the State or maintenance of public order there has to be material before the competent authority for arriving at that conclusion. Parole cannot be denied on mere generalization. Accordingly this ground is also not made out.

It has been held by Division Bench of this Court in **Ram Chander Vs. State of Punjab and others** 2017(3) RCR(CrI) 340 that likelihood of committing a crime while on furlough/parole would not be a sufficient ground to deny temporary release as merely likelihood of committing a crime is not to be taken as apprehension of a threat to the security of the State or maintenance of public order.

The ground that there is a possibility of the petitioner absconding or involving in other serious crime while released on furlough/parole, appears to be a mere apprehension in the mind of the Authority as no material has been referred to justify such apprehension.

fact that a person is convicted for an offence does not mean that he will abscond if he is released on furlough/parole. As held by a Division Bench of this Court in **Baljit Singh Vs. State of Punjab 2017(2) Law Herald 1796** if the State has any apprehension that the convict will jump furlough/parole it can always impose adequate conditions including asking for heavy surety.

Accordingly, this petition is allowed. The impugned order is set aside. The respondents are directed to release the petitioner on furlough for a period of three weeks subject to his furnishing bond/ surety to the satisfaction of the District Magistrate/ Competent Authority. The petitioner shall surrender before the Jail authorities on the expiry of three weeks of his release.

March 08, 2019

(**HARINDER SINGH SIDHU**)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No