

CWP-25663-2018

[1]

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

**CWP No.25663 of 2018 (O&M)
Date of decision: March 08, 2019**

Vinod @ Gunga

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Prateek Rathee, Advocate
for the petitioner.

Mr. Sandeep Vashisth, DAG, Haryana.

HARINDER SINGH SIDHU, J.

By filing this petition, the petitioner has prayed that the respondents be directed to release him on furlough.

The petitioner is undergoing imprisonment for life in case FIR No.166 dated 30.04.2010 under Sections 302, 34 IPC and Section 25 of the Arms Act, Police Station Sadar Dadri after his conviction.

The petitioner submitted an application to the Superintendent, District Jail, Jhajjar for grant of furlough to meet his family members, which was forwarded to the District Magistrate, Jhajjar. The District Magistrate, Jhajjar sought reports from Sub- Divisional Magistrate, Beri and Superintendent of Police, Jhajjar. Upon the receipt of the said reports, the District Magistrate did not recommend the case of the petitioner for his release on furlough.

Consequently, the Commissioner, Rohtak Division, Rohtak rejected the request for furlough.

The order of the Commissioner states that according to the report of Superintendent of Police, Jhajjar, the convict is a habitual offender and his family members do not reside in village MP Majra. It has also been stated that there is apprehension of breach of peace in village upon the release of the petitioner.

Reply has been filed by the Superintendent, District Prison, Jhajjar reiterating the aforesaid grounds for rejection of the request for furlough.

Since the request of the petitioner had mainly been rejected on the ground that his family is not residing in village Majra Jahajgarh, Police Station Beri, District Jhajjar, therefore, vide order dated 20.12.2018 learned counsel for the petitioner was required to produce the proof that his family is residing at the said address.

Pursuant to the order dated 20.12.2018, the petitioner has placed on record a certificate/report of the Gram Panchayat, Village M.P.Majra, Tehsil Beri (Jhajjar) (Annexure P-3), which states that the family of Vinod (petitioner) resides in the village and his parents have died. His two brothers are living at Gurugram. Vinod has been living in the village since birth. This document further mentions that the petitioner had spent his two leaves in the village peacefully.

Learned counsel for the petitioner has argued that the grounds for rejection are baseless. On earlier occasions also, the petitioner had availed the concession of temporary release twice between 27.5.2016 to 21.2.2017. He had surrendered on time. There is no complaint or allegation that he misused the concession of temporary release.

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.

fact that a person is convicted for an offence does not mean that he will abscond if he is released on furlough/parole. The Gram Panchayat of the village of the petitioner has certified that he is resident of the village and that during his temporary release on earlier two occasions, he spent his leave periods peacefully.

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 two 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 two weeks of his release.

March 08, 2019

(**HARINDER SINGH SIDHU**)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No