

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

**CWP No.26628 of 2018 (O&M)
Date of decision: February 01, 2019**

Surender @ Billu

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr.Ravinder Phogat, 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 05.07.2018 (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 imprisonment for life in case FIR No.232 dated 09.08.2014 under Sections 302/34 IPC, Police Station Badhra, District Bhiwani after his conviction by the Additional Sessions Judge, Bhiwani.

The petitioner filed an application for release on furlough for meeting his family members, including his mother, who is stated to be aged about 80 years. The Superintendent of Jail recommended his case stating that he is entitled for furlough under the Haryana Good Conduct Prisoners (Temporary Release) Act,

1988. However relying on the report of the Deputy Commissioner and

Superintendent of Police, Charkhi Dadri, in which it was stated that the petitioner is a habitual offender and he may involve in other serious crime or may abscond if released from jail, the Commissioner, Rohtak Division, Rohtak rejected the furlough of the petitioner.

In the reply filed by Superintendent, District Prison, Bhiwani it has been stated that another application of the petitioner for parole for house repair for four weeks is in process and pending with the office of District Magistrate, Charkhi Dadri. Be that as it may, in the present petition, the petitioner has impugned the order dated 5.7.2018 rejecting his request for his release on furlough.

The aforesaid order cannot sustain as neither ground mentioned for rejection of furlough/parole is made out in the facts of this case.

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 parole would not be a sufficient ground to deny temporary release on parole 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, is just the apprehension in the mind of the Authority which is not based on any substantial evidence or reasoning. Temporary Release Acts envisage temporary release of convicts. Mere fact that a person is convicted for an offence does not mean that he will abscond if he is released on 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 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 re-consider the case of the petitioner for release on furlough/parole in view of the above observations. The exercise be carried out and necessary orders passed within a period of three weeks from the date of receipt of a certified copy of this order.

February 01, 2019

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No