

CWP-27373-2018

[1]

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

**CWP No.27373 of 2018 (O&M)
Date of decision: March 01, 2019**

Sunder @ Kala

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Susheel Gautam, 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, Karnal Division, Karnal dated 14.09.2018 (Annexure P-3) whereby the application of the petitioner for release on parole has been rejected. It has also been prayed that the respondents be directed to release the petitioner on agricultural parole.

The petitioner is undergoing imprisonment for life in case FIR No.13 dated 27.5.2009 under Sections 395, 397 IPC, Police Station Sector-14, Panchkula after his conviction by the Trial Court. His appeal is pending before this Court.

The petitioner submitted an application to the Superintendent, District Jail, Karnal for grant of parole to attend the agricultural work, which was recommended to the Deputy Commissioner, Karnal. The Deputy Commissioner further recommended for his parole to the Commissioner, Karnal Division,

Karnal.

When no decision was taken thereon, the petitioner filed CWP

No.17502 of 2018 for direction to decide his application. However, during the pendency of the writ petition, the impugned order rejecting agriculture parole to the petitioner was passed. The impugned order mentions that the petitioner is a person with criminal tendency who can commit any crime after coming on parole and there is chance of breach of peace in the village. It is further mentioned that the petitioner is involved in 13 cases and, thus, having considered his criminal history, his request for parole has been rejected. Hence, the present petition.

Notice of motion was issued. Reply by way of affidavit of Shamsheer Singh Dahiya, Superintendent of Jail, Central Jail-1, Hisar has been filed. The details of 13 cases have been given. In 11 cases the petitioner has been acquitted. In two cases he has been sentenced to the period already undergone by him. It is stated that the petitioner has completed 10 years of sentence and he has not committed any jail offence after his conviction. The reply further states that the conduct of the petitioner is good inside the jail.

Learned counsel for the petitioner has argued that the grounds for rejection are baseless. The petitioner had availed the concession of parole earlier as well which has also been mentioned in the report of the District Magistrate, Rohtak dated 16.3.2018 (Annexure P-1). Learned counsel has also referred to the Annexure P-1, wherein, it is mentioned that *“SP, Rohtak has not made any comment from which it reveals that prisoner has done anything during his earlier 2 parole from which there was threat to state security or public order. Prisoner has availed earlier parole from 25.09.2017 to 24.10.2017 for 4 weeks for house repair and there is no adverse remark against prisoner during that period.”*

Referring to above, it is stated that the petitioner had surrendered on time. There

is no complaint or allegation that he misused the concession of parole.

The impugned order declining parole to the petitioner cannot sustain.

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 involving in other serious crime while released on parole, appears to be a mere apprehension in the mind of the Authority as no material has been referred to justify such apprehension. Moreover, on earlier occasions also the petitioner had surrendered in time after expiry of the parole period.

Accordingly, this petition is allowed. The impugned order is set aside. The respondents are directed to release the petitioner on agriculture parole for a period of six 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 six weeks of his release.

March 01, 2019

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No