

CWP-28710-2018

[1]

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

**CWP No.28710 of 2018 (O&M)
Date of decision: March 11, 2019**

Amarjit

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Randeep S.Dhull, 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, Hisar Division, Hisar 29.9.2018 (Annexure P-1) whereby the application of the petitioner for release on agriculture parole has been rejected. It has also been prayed that the respondents be directed to release the petitioner on parole.

The petitioner is undergoing rigorous imprisonment for life in case FIR No.18 dated 5.2.2012 under Sections 302, etc. IPC, Police Station Bond Kalan, District Bhiwani after his conviction by the Trial Court. His appeal is pending before this Court.

The petitioner submitted an application to the Superintendent, Central Jail-1, Hisar for grant of parole for agricultural purposes and to meet his family members. The Commissioner, Hisar Division, Hisar, rejected the same vide the impugned order. It was recorded in the impugned order that the Superintendent of Police,

Charkhi Dadri has reported that the petitioner has three sisters and one brother. The

sisters are married and the brother is unmarried. The petitioner owns one acre of land and his brother is capable of doing agriculture work. It was also reported that there are chances of breach of peace, if the petitioner is released on parole. There are six cases against the petitioner. In two such cases, he has been acquitted. In three cases, he has been convicted and in one the trial is still pending. The local Police have expressed the possibility that if the convict comes on parole, he may abscond and can commit any serious crime as convict is a habitual offender.

Learned counsel for the petitioner has argued that the petitioner had earlier also availed the concession of parole on three occasions (three weeks parole from 01.03.2017 to 23.03.2017, six weeks parole from 23.09.2017 to 05.11.2017 and four weeks parole from 05.06.2018 to 05.07.2018). He had surrendered on time. There was no report that he has misused the concession of parole. Thus, the argument of apprehension of breach of peace in the village and that he may abscond or indulge in crime is unfounded.

The impugned order declining parole 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 is apprehension to breach of peace if the petitioner is released, apart from the fact that he had availed of parole three times and surrendered in time without any complaint, all that needs to be said is that no material in support thereof has been brought on record by the respondents. Parole cannot be denied on mere generalization.

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 parole, appears to be a mere apprehension in the mind of the Authority as no material has been referred to justify such apprehension. 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.

Further, the mere fact that the petitioner has younger brother in his family, would be no ground to deny parole for agricultural purposes. The land holdings are usually very small. Agricultural operations are a joint effort in which the entire family is involved. It is only when all the members of the family contribute their labour that they can sustain themselves.

Accordingly, this petition is allowed. The impugned order is set aside. The respondents are directed to release the petitioner on 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 11, 2019

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No