

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

CWP No.28925 of 2018 (O&M)

Date of decision: 14.02.2019

Tarun @ Vicky

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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

Mr. Neeraj Poswal, 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 27.07.2018 (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.326 dated 13.8.2014 under Sections 302, 201, 120-B IPC, Police Station City Bahadurgarh, District Jhajjar after his conviction by the Additional Sessions Judge, Jhajjar.

The petitioner submitted an application to the Superintendent, District Jail, Rohtak for grant of furlough to meet his family members, which was forwarded to the Commissioner, Rohtak Division, Rohtak. The Commissioner,

Rohtak Division sought a report from Sub Divisional Magistrate, Alipur 'North

West' Delhi. The Sub Divisional Magistrate, Alipur sought a report from the Deputy Commissioner of Police, Rohini, and upon receipt of the report, did not recommend the case of the petitioner for furlough. The Deputy Commissioner of Police had reported that one more case was registered against the petitioner for offence under Section 448/34 IPC and Section 25 of the Arms Act at Police Station K.N.K.Marg Delhi. Release of the petitioner on furlough may disturb peace of the village. In view thereof, the Commissioner, Rohtak Division, Rohtak taking the petitioner to be a habitual offender and apprehending that he may commit any heinous offence upon his release, rejected the request for furlough.

The impugned order declining furlough to the petitioner cannot sustain as the grounds mentioned therein do not justify denial of furlough.

It has been held by Division Bench of this Court in **Ram Chander Vs. State of Punjab and others 2017(3) RCR(Cr1) 340** that likelihood of committing a crime while on furlough/parole would not be a sufficient ground to deny temporary release on furlough/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 committing any heinous crime upon his release, is just the apprehension in the mind of the Authority which is not based on any material. No such material is forthcoming even in the reply of the respondents. Temporary Release Acts envisage temporary release of convicts. Mere fact that a person is convicted for an offence does not mean that he will again commit an offence if he is released from jail.

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 14, 2019
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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No