

CWP-28930-2018

[1]

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

**CWP No.28930 of 2018 (O&M)
Date of decision: March 15, 2019**

Randhir

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Aman Sharma, Advocate for the petitioner.

Mr. Sandeep Vashisht, DAG, Haryana.

HARINDER SINGH SIDHU, J.

This petition has been filed praying for directions to quash the order of the Commissioner, Rohtak Division, Rohtak dated 21.6.2018 (Annexure P-3) whereby the application for release of the petitioner on 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 ten years in case FIR No.114 dated 22.03.1997 under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Kharkhoda, Sonapat after his conviction by the Court.

He submitted an application in April, 2018 to the Superintendent, District Jail, Rohtak for grant of parole for agricultural purpose, which was forwarded to the District Collector, Rohtak. The District Collector, Rohtak sought a report from the Superintendent of Police, Rohtak. Upon the receipt of the report of the Superintendent of Police, Rohtak, the Commissioner, Rohtak

Division, Rohtak rejected the request for parole. It was opined that several other

cases have been registered against the petitioner, from which it is evident that he is an offender by nature and could commit any serious crime after release.

Learned counsel for the petitioner has argued that the grounds for rejection are baseless. On 29.8.2002, he was granted parole and directed to surrender before the jail authorities on 27.9.2002. However, he did not surrender and was declared proclaimed offender. FIR No.426 dated 22.10.2002 was registered against him under Sections 8 and 9 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988. He was apprehended by the police on 19.9.20013. Vide judgment dated 11.7.2014 passed by the Additional Chief Judicial Magistrate, Bhiwani, he was acquitted in the said case.

Subsequently, the petitioner has been released on parole twice, in May, 2016 and March, 2017 for a period of 42 days on both occasions. There is no complaint or allegation that he misused the concession of parole.

Thereafter, in April, 2018, the petitioner again applied for parole, which was rejected vide the impugned order. Hence, this petition.

In the reply filed by the Deputy Superintendent, District Jail, Rohtak it has been stated that the petitioner has undergone actual sentence of 07 years and 27 days as on 16.1.2019. During this period he has also availed parole / interim bail of about 30 weeks. He overstayed parole for 10 years 11 months and 22 days. He has been acquitted both in the case under Narcotic Drugs and Psychotropic Substances Act, 1985 and the case under Sections 8 and 9 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988.

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.

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. Though, he absconded when he was released on parole in 2002, but after that he has been released on parole twice. On both occasions he had surrendered in time after expiry of the parole period.

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 release the petitioner on parole for a period of four 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 the parole period.

March 15, 2019

(**HARINDER SINGH SIDHU**)

Atul

JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No