

CWP-28934-2018

[1]

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

CWP No.28934 of 2018 (O&M)

Date of decision: 14.02.2019

Sant Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Sarla Chaudhary, 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 3.10.2018 (Annexure P-1) 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 parole for house repair.

As stated in the petition, the petitioner is undergoing rigorous imprisonment for life in a case under Sections 302/34 IPC registered at Police Station Sampla, District Rohtak after his conviction by the Additional Sessions Judge, Rohtak.

The petitioner submitted an application to the Superintendent, District Jail, Rohtak for grant of parole for the purpose of House Repair, which was forwarded to the District Magistrate, Rohtak, who recommended the release of the petitioner on parole. The Superintendent of Police in his report stated that the

petitioner has relations with gang and has rivalry in the village and if he comes on parole, he may abscond and may commit some offence. There can be apprehension of breach of peace in the village. Based on the said report, the Commissioner, Rohtak Division, Rohtak rejected the request for parole.

Learned counsel for the petitioner has argued that the grounds for rejection are baseless. On earlier occasion also, the petitioner had availed the concession of parole i.e. w.e.f. 08.06.2018 to 04.07.2018. He had surrendered on time. There is no complaint or allegation that he misused the concession of parole.

In the reply filed by the Deputy Superintendent, District Jail, Rohtak on behalf of the respondents, it has been stated that total eight cases were pending against the petitioner:

“Pending cases

1. *FIR No.49/2013 dated 23.02-2013, u/s 174-A IPC, PS Sampla, Rohtak – Undergone*
2. *FIR No.47/2013 dated 23.02.2013, u/s 174-A IPC, PS Sampla, Rohtak – Undergone*
3. *FIR No.136/2012 dated 02.04.2012, u/s 506 IPC, PS Sampla, Rohtak – Undergone*

Convicted cases :

4. *FIR No.582/2013 dated 25.09.2013 u/s 506 IPC, PS Civil Lines, Rohtak*
5. *FIR No.170/2011 dated 18.04.2011 u/s 148/149/332/353/302/120-B IPC, 25/54/59 A.Act, PS Sampla, Rohtak*

Acquitted cases :

6. *FIR No.41/1999 dated 03.03.1999, u/s 324 IPC, 385 IPC, PS Sampla, Rohtak*
7. *FIR No.28/1999 dated 25.01.1999 u/s 302 IPC, 201 IPC, PS Sadar Bahadurgarh, Jhajjar*
8. *FIR No.206/2011 dated N/A, U/s 395 IPC, 25/54/59 A.Act, PS*

Sadar Sonipat.”

As quoted above, in three cases, he has already undergone the sentence and in three he stands acquitted, and in two cases he has been convicted.

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, is just the apprehension in the mind of the Authority which is not based on any substantial evidence or reasoning, as none has been pointed out. Moreover, on earlier occasion also the petitioner 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 four weeks of his release.

February 14, 2019

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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No