

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

**CWP-29984-2018 (O&M)
Date of Decision:01.02.2019**

SATBIR

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Susheel Gautam, Advocate
for the petitioner.

Ms. Sandeep Vashisth, DAG, Haryana.

HARINDER SINGH SIDHU, J.

The petitioner has filed the present petition impugning order dated 21.10.2018 passed by the Commissioner, Karnal Division, District Karnal (Annexure P-1) whereby his application for parole has been declined. He has also prayed for directions to respondent No.2 to grant parole to him for agriculture purposes for six weeks in terms of Section 3(1)(c) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for short 'the Act').

After having been convicted in FIR No.299 dated 11.8.2013 under Sections 452, 376-D, 306 IPC and 4 of the POCSO Act, registered at Police Station Indri, District Karnal, the petitioner is undergoing life imprisonment.

He submitted an application for grant of parole for agricultural purposes. Vide the impugned order, the parole case of the petitioner was rejected on the ground that there is no land in the name of the petitioner. However, the father of the petitioner owned four acres of land, which he is cultivating himself. It is also recorded that the possibility cannot be ruled out of breach of peace in the village if the petitioner comes to the village on parole. Also the petitioner was accused in another case bearing FIR No.327 dated 5.10.2012, under Sections 148, 149, 323, 324 and 506 IPC, registered at Police Station Indri Karnal, in which he has been acquitted. Considering the criminal history of the petitioner, his parole application was rejected in public interest in terms of Section 6 of the Act.

All the grounds for declining the parole are unsustainable. Merely because the petitioner does not own land and that the land is held in the name of his father, does not negate the ground of release for agriculture purposes. In a majority of families who are wholly dependant on agriculture the land holdings are very small. The land is usually held in the name of the ancestor i.e. father/ grand-father, but the entire family is involved in the agricultural operations, the major burden whereof is shouldered by the younger members of the family. The order ignores this ground reality and thus, this ground for rejection cannot sustain.

The ground of apprehension of breach of peace in the village if the petitioner is released on parole also cannot sustain in the absence of any material which justifies such an apprehension.

The ground of criminal history of the petitioner is denying parole is also untenable. In the only other case registered against the

petitioner i.e. FIR No.327 dated 5.10.2012 under Sections 148, 149, 323, 324 and 506 IPC, Police Station Indri, District Karnal, he has already been acquitted by the competent court.

Thus, the writ petition is allowed. The impugned order dated 21.10.2018 (Annexure P-1) is quashed.

The respondents are directed to release the petitioner on parole for a period of four weeks subject to his furnishing surety bonds to the satisfaction of the District Magistrate. After the expiry of the said period he shall surrender before Jail Superintendent

(HARINDER SINGH SIDHU)

February 01, 2019

JUDGE

Whether speaking/reasoned: Yes/No Whether Reportable: Yes/No