

CWP-30108-2018

[1]

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

**CWP No.30108 of 2018 (O&M)
Date of decision: February 21, 2019**

Richhpal @ Pallu

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Ms. Sonia G. Singh, Advocate
for the petitioner.

Mr. Sandeep Vashisth, DAG, Haryana.

HARINDER SINGH SIDHU, J.

This petition has been filed praying for directions to quash the order of the Commissioner, Karnal Division, Karnal dated 28.10.2018 (Annexure P-2) 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 agriculture parole.

The petitioner is undergoing imprisonment for 15 years in case FIR No.475 dated 29.11.2013 under Section 15 of NDPS Act, Police Station Saffidon, District Jind after his conviction by the Additional Sessions Judge, Jind.

The petitioner submitted an application to the Superintendent of Jail, District Prison, Karnal for grant of agriculture parole. The Sub Divisional Magistrate (Civil), Saffidon and District Collector, Jind recommended the release of the petitioner on parole. The Commissioner, Karnal Division, Karnal in the impugned order noticed that the following cases are registered against the

petitioner:-

- “1. *FIR No.262 dated 12.08.2014 under Section 174-A IPC, PS Saffidon, District Jind.*
2. *FIR No.97 dated 26.07.2011 u/s 15, 61, 85 NDPS Act, PS Siwan, District Kaithal.*
3. *FIR No.137 dated 28.12.2011 u/s 15, 61, 85 NDPS Act, PS Sadar, Kaithal, District Kaithal.*
4. *FIR No.398/2013 under Section 379 IPC, PS Adarsh Nagar, Delhi.*
5. *FIR No.116 dated 15.08.2014 u/s 174-A IPC, PS Sadar, District Kaithal.*
6. *FIR No.240 dated 25.08.2014 u/s 174-A IPC, PS Civil Lines, Kaithal, District Kaithal.”*

The Commissioner in view of the past antecedents of the petitioner and the report of the Superintendent of Police, Jind rejected the request for parole.

In the reply filed by Deputy Superintendent of Prison, District Prison, Karnal, it is stated that in five cases i.e. FIR No.97, 137, 118, 240 and 262, fully detailed above, either the petitioner has been acquitted or has already undergone the sentence. It is further stated that the Superintendent of Police had reported that if the petitioner is released on parole he can abscond. Consequently, the impugned order was passed by the Commissioner, Karnal Division, Karnal.

Learned counsel for the petitioner has argued that the impugned order mentions no valid grounds for rejection of parole and is based on mere apprehension of absconding. On earlier occasions also, the petitioner had been allowed the concession of parole i.e. 42 days in June, 2017 and 28 days in October, 2017. He had surrendered on time. There is no complaint or allegation that he misused the concession of parole.

The impugned order declining parole to the petitioner cannot sustain.

The ground that there is a possibility of the petitioner absconding 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. Moreover, on earlier occasions also the petitioner had surrendered in time after expiry of the parole periods.

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 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.

February 21, 2019

(**HARINDER SINGH SIDHU**)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No