

CWP No.31092 of 2018

[1]

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

**CWP No.31092 of 2018 (O&M)
Date of decision: February 15, 2019**

Jai Pal @ Khopa

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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

Mr. Ramesh Kumar Ambavata, 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 24.10.2018 (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.196 dated 12.07.2015, under Sections 302, 377, 341, 323, 355 and 34 IPC, Police Station Line Paar, Bahadurgarh, District Jhajjar after his conviction by the Additional Sessions Judge, Jhajjar.

The petitioner submitted an application to the Superintendent, District Jail, Faridabad for release on furlough to meet his children and wife. His case was recommended by the Jail Superintendent, Jhajjar in his report to the District

Magistrate, Jhajjar. District Magistrate, Jhajjar sought reports from Sub-

Divisional Magistrate and Superintendent of Police, Jhajjar. The Sub-Divisional Magistrate after verifying the facts recommended the case of the petitioner for furlough. However, the District Magistrate, Jhajjar relying on the report of the Superintendent of Police, Jhajjar that the petitioner may abscond upon his release and that it is not appropriate to release him, did not recommend the case of the petitioner. Consequently, the Commissioner, Rohtak Division, Rohtak rejected the request by passing the impugned order.

The impugned order states that one more case i.e. FIR No.105/2014 under Sections 323, 324, 452, 506, 34 IPC, registered at Police Station Linepar Bahadurgarh is pending against the petitioner. The Commissioner has termed the petitioner as habitual offender and apprehending that he may not return to the prison after his temporary release and also that his release may disturb the public peace, declined furlough to him.

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

The ground that there is a possibility of the petitioner absconding while released on parole, is just the apprehension in the mind of the Authority which is not based on any substantial material, as none has been pointed out. 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.

release of the petitioner will disturb the public peace.

Accordingly, this petition is allowed. The impugned order is set aside. The respondents are directed to release the petitioner on furlough for a period of three 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 three weeks of his release.

February 15, 2019

(**HARINDER SINGH SIDHU**)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No