

**CWP-6188-2018**

**[1]**

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

**CWP No.6188 of 2018**

**Date of decision: April 11 , 2019**

Randheer @ Dhira

...Petitioner

Versus

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Arjun Sheoran, Advocate  
for the petitioner.

Ms.Tanu Shree Gupta, DAG, Haryana and  
Mr.Sandeep Vashisth, DAG, Haryana.

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**HARINDER SINGH SIDHU, J.**

The petitioner has filed this petition praying for directions that he be released on furlough/parole under the provisions of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988.

The petitioner has been convicted for an offence u/s 302, 307 and 452 IPC by the Additional Sessions Judge, Jind vide judgment and order dated 17.04.2007. Under Section 302 IPC, he was sentenced to death and under Section 307 IPC he was sentenced to undergo rigorous imprisonment for 05 years and to pay fine of Rs.5,000/-. In default of payment of fine he was to further undergo RI for 01 year. Under Section 452 IPC, he was sentenced to undergo RI for 03 years and to pay fine of Rs.3,000/- and in default of payment of fine to undergo further RI for 06 months.

Vide order dated 07.09.2007, Murder Reference No.4 of 2007 was declined by this Court and the death sentence was commuted to that of life imprisonment. The order of modification further reads:

*“Since the appellant-accused had left no stone unturned to wipe out the entire family of complainant Veda and that there being an apprehension of imminent danger in future to the life of Veda and his surviving son, we are inclined to hold that the appellant-accused shall serve the imprisonment for twenty years and till the completion of this period, he shall not be entitled to any benefit under Section 401 of Criminal Procedure Code, Prisons Act; Jail Manual or any other Statute and the Rules made for the purpose of grant of commutation/remission of the sentence.”*

In the reply filed by the respondents it has been stated that the petitioner is not entitled for temporary release in view of the order dated 07.09.2007 in the Murder Reference No.4 of 2007. It has been admitted that earlier he has been temporarily released on parole/furlough by oversight. Last time he was released on furlough on 25.08.2012 for two weeks. He surrendered on 09.09.2012. Thereafter he has never been released on parole. The guidance from the o/o Director General of Prisons, Haryana was sought. After consideration it was viewed that the petitioner may not be released on parole as the High Court has debarred his temporary release till completion of imprisonment of 20 years. The Director General of Prisons in his communication dated 25.4.2017 (Annexure R-2) opined as under:

*“Subject :- Regarding request to give guidelines for initiation of Parole/Furlough case of convict Randhir @ Dhera s/o Jiwana.*

*Reference the your office letter No.3728 dated 29.03.2017,*

*on the above subject.*

2. *Keeping in view of the orders passed by Trial Court on 07.09.2017 the matter was considered in Head Office and viewed that this convict may not be released on parole at this stage as the Ld. Court has imposed bar on him to release till completion of imprisonment for twenty years.”*

Apparently, the only objection to the grant of parole to the petitioner is the order of the Court to the effect that : *“...we are inclined to hold that the appellant-accused shall serve the imprisonment for twenty years and till the completion of this period he shall not be entitled to any benefit under Section 401 of Criminal Procedure Code, Prisons Act; Jail Manual or any other Statute and the Rules made for the purpose of grant of commutation/remission of the sentence.”*

A somewhat similar question as to whether a prisoner who has been sentenced to imprisonment in prison for the rest of his life with a direction that he shall not be entitled to commutation or premature release can be released on parole was considered by Hon'ble Supreme Court in ***Krishan Lal v. State of Rajasthan, (2013) 11 SCC 395.***

In that case, the trial court had convicted all the accused persons except one for the offences under Sections 302, 307, 148, 450 read with Sections 149 and 120-B of the Penal Code, 1860 and sentenced them to death. The High Court upheld the conviction of all the convicted persons but commuted the death sentence to imprisonment for life. Hon'ble the Supreme Court confirmed the conviction and sentence awarded to the accused by the High Court and held that the imprisonment for life awarded to the appellant therein (Krishan Lal) shall be

the imprisonment in prison for the rest of his life and he shall not be entitled to any commutation or premature release under Section 401 of the Code of Criminal Procedure, 1973, The Prisoners Act, The Jail Manual or any other statute and Rules made for the purpose of grant of commutation and remissions.

The point for consideration before the Supreme Court was whether the appellant was entitled to be released on parole in the light of the sentence awarded.

The Supreme Court referred to the circumstances in which the order came to be passed. The Senior Counsel for the appellant Krishan Lal had submitted that if he were sentenced to life imprisonment he would never claim his premature release or commutation of his sentence on any ground. The statement was recorded. The Counsel for the complainant had opposed the prayer contending that if accused Krishan Lal was not awarded death sentence, he was likely to eliminate the remaining family members of Bhagwan Ram, as is evident from his past conduct and behaviour. He further submitted that in order to protect the surviving family members of Bhagwan Ram, it was necessary to at least deprive Krishan Lal - the appellant of his life.

In the light of these submissions, the Supreme Court had passed the following order:

*“...However, in the peculiar circumstances of the case, apprehending imminent danger to the life of Subash Chander and his family in future, taking on record the statement made on behalf of Krishan Lal (A-1), we are inclined to hold that for him the imprisonment for life shall be the imprisonment in prison for the rest of his life. He shall not be entitled to any commutation or premature release under Section 401 of the Code of Criminal Procedure, Prisoners Act, Jail Manual or any other statute and the rules made*

*for the purposes of grant of commutation and remissions.”*

Hon'ble Supreme Court noted that the directions made it clear that appellant-Krishan Lal has to serve the imprisonment throughout his life in prison and was not entitled to any commutation or premature release under the Code of Criminal Procedure or any other Act including the Prisoners Act, the Jail Manual or any other statute and the Rules made for the purposes of grant of commutation and remissions.

It was also noticed that the sentence was silent on his right or entitlement of parole.

The Court considered that as per 'Rajasthan Prisoners' Release on Parole Rules, 1958' a prisoner sentenced to imprisonment for not less than one year was permitted to make an application for release on parole before the Prisoners' Parole Advisory Committee. The procedures to be followed in considering such applications and the time for which parole was to be allowed was specified. But in view of the commutation of death sentence into life imprisonment and specific conditions imposed foregoing commutation or premature release under any statute or rules and considering the apprehension expressed by the complainant it was held that the appellant shall not be entitled for regular parole in terms of Rule 9 of the said Rules. However, in emergent cases involving humanitarian considerations, the authority concerned was free to pass appropriate orders in terms of Rule 10-A(i) of the Rules by imposing stringent conditions.

It was observed :

***“15. Though the Rajasthan Prisoners' Release on Parole Rules, 1958***

*enable the appellant to apply for parole before the Advisory Committee, we are of the view that in view of the commutation of death sentence into life imprisonment and specific conditions imposed foregoing commutation or premature release under any statute or rules and considering the apprehension expressed by the complainant Respondent 2 herein, we hold that henceforth the appellant shall not be entitled for regular parole in terms of Rule 9 of the said Rules. However, if any contingency arises, the same may be considered by the Advisory Committee in terms of Rule 10-A(i) of the said Rules which reads as under:*

*“10-A. (i) Notwithstanding the provisions of Rules 3, 4, 5, 9 and 10 in emergent cases, involving humanitarian consideration viz.: (1) critical condition on account of illness of any close relations i.e. father, mother, wife, husband, children, brother or unmarried sister; (2) death of any such close relation; (3) serious damage to life or property from any natural calamity; and (4) marriage of a prisoner, his/her son or daughter or his/her brothers/sisters in case his/her parents are not alive.*

*A prisoner may be released on parole for a period not exceeding 7 days by the Superintendent of the Jail and for a period not exceeding 15 days by the Inspector General of Prisons (District Magistrate) on such terms and conditions as they may, consider necessary to impose for the security of the prisoner including a guarantee for his return to the jail, acceptance or execution whereof would be a condition precedent to the release of such a prisoner on parole.”*

*16. In view of the order of this Court dated 29-3-2001 in Subash Chander, we reiterate that the appellant is not entitled to normal parole in terms of Rule 9, however, in emergent cases involving humanitarian considerations, the authority concerned is free to pass appropriate orders in terms of Rule 10-A(i) of the Rules. Even while*

*considering such application, the authority concerned is directed to adhere to the conditions mentioned in the said Rule, impose appropriate stringent condition(s) and see that by the temporary release of the appellant nothing happens to the complainant and his family and also pass appropriate orders giving them necessary protection. It is also made clear that if the authority concerned is not satisfied with the reasons for temporary parole, it is free to reject such application.”*

In the case considered by the Hon'ble Supreme Court while commuting the sentence of death to imprisonment for life it was directed that it be treated to be the imprisonment in prison for the rest of his life. He shall not be entitled to any commutation or premature release under Section 401 of the Code of Criminal Procedure, Prisoners Act, Jail Manual or any other statute and the rules made for the purposes of grant of commutation and remissions.

In the present case while commuting the death sentence of the petitioner to life it has been directed that he shall serve imprisonment for twenty years and till the completion of this period he shall not be entitled to any benefit under Section 401 of Criminal Procedure Code, Prisons Act; Jail Manual or any other Statute and the Rules made for the purpose of grant of commutation/remission of the sentence. This direction has been necessitated considering the circumstances that the petitioner had left no stone unturned to wipe out the entire family of the complainant Veda and there being imminent danger in future to the life of Veda and his surviving son.

With the sentence as it stands, in the light of the decision of Hon'ble Supreme Court the petitioner may not be considered to be entitled to parole in normal circumstance. It is only in emergent conditions under pressing

humanitarian considerations that the petitioner may be considered for release on parole for short periods under appropriate stringent conditions so that no harm is caused to the complainant and his surviving family members. As in this petition the petitioner is not seeking temporary release on any emergent humanitarian consideration no direction for his release can be passed.

The petition is disposed of.

April 11, 2019

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**( HARINDER SINGH SIDHU )**  
**JUDGE**

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|-----------------------------|----------|
| Whether Speaking / Reasoned | Yes      |
| Whether Reportable          | Yes / No |