

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-30411-2019

Date of Decision:19.10.2019

Ved Parkash @ Ved Pal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.D.S.Virk, Advocate
for the petitioner

RAJIV NARAIN RAINA, J. (ORAL):

1. Through this petition, the petitioner has sought for a writ in the nature of certiorari for quashing the order dated 29.08.2019 (P-1) passed by respondent No.2 whereby benefit of parole to the petitioner has been denied so also for issuance of a writ in the nature of mandamus directing the respondents/State to grant the benefit of parole to the petitioner for a period of four weeks.

2. Notice of motion.

3. Mr.Saurabh Mohunta, DAG Haryana, present in the Court, accepts notice. Written statement is not required by reason of the nature of the order proposed to be passed.

4. Perused the impugned order dated 29.08.2019 passed by the Divisional Commissioner, Karnal Division declining the petitioner's parole request. Not impressed with it.

5. Heard for final disposal.

6. The petitioner is undergoing sentence in District Jail, Kaithal in

case FIR No.125, dated 18.05.2007, under Sections 302/ 148/ 149/ 323/ 324/452 IPC, registered at Police Station Sadar Kaithal, District Kaithal. He has undergone 12 years of actual sentence. He has been granted parole/furlough 17 times in the past. After which, he had surrendered in time at the jail gates on all occasions. The impugned order does not reveal the conduct of the petitioner in jail but it is assumed to be good as nothing adverse has been commented upon. The foundation of parole is based on good conduct of prisoner in jail. The petitioner is married and has three children of which the eldest is a son aged about 20 years. The two daughters are aged about 18 years and 15 years. He had applied for parole for admission of his children in educational institutions. The Commissioner-respondent No.2 has declined the request for release on the premises that he can commit serious offence and that he might absent himself from jail, if released on parole. He has classified the petitioner as a hardcore criminal. He remarks that the release on parole may endanger the peace of the State. The District Magistrate, Kaithal and the Superintendent of Police, Kaithal had not recommended parole to the petitioner for admission of his children. The Commissioner has endorsed this opinion mechanically paying precious little personal thought to the fact that the petitioner stands released on parole in the past not once but 17 times which is enough to conclude that he will not pose a danger to the society or his presence can cause breach of law and order. It is not the case that he is a threat to the security of the State. These reasons have been ruled out in the judicial pronouncements as improper reasons for denial unless there is verified data and well founded apprehension from past conduct. There is nothing of the kind in this case. The impugned order is based on irrelevant considerations while relevant

considerations have not played any part in making the order. Since, the order is non-speaking, in the sense it does not contain well founded reasons germane to the decision-making process on why parole should be denied. Merely because the District Magistrate and Superintendent of Police, Kaithal have in routine declined to recommend the case for parole, that does not mean the Commissioner at his level of experience should blindly follow opinion and that too in a sketchy order. The impugned order dated 29.08.2019 is not legally sustainable and deserves to be quashed. But the dismissal will have no bearing on relief which I am denying for the reason contained in the next paragraph.

7. So, as far as the prayer for parole for admission of the children is concerned, I am not impressed with the ground due to complete lack of pleadings to support the prayer, quite apart from the fact that we are not in the school or college admission season in the month of October. Such a request can be made by the petitioner at an appropriate stage after proper ground-work done from jail in advance to secure the educational future of his children. Then the jail authorities would consider help out the petitioner and consider granting him parole after calling for reports from necessary quarters. The dismissal of this petition at this stage and the setting aside of the impugned order will not stand in the way of the petitioner for making application for parole at the appropriate stage on realistic, justified and valid grounds.

8. With the above observations and liberty, the petition is disposed of.

19.10.2019

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Whether speaking/reasoned

Whether reportable-

(RAJIV NARAIN RAINA)
JUDGE

Yes/No.

Yes/No