

CWP-9316-2018

[1]

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

**CWP No.9316 of 2018 (O&M)
Date of decision: March 13, 2019**

Mukesh Kumar @ Mukesh Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Gagandeep Singh Simble, Advocate
for the petitioner.

Ms. Ruchika Sabharwal, AAG, Punjab.

HARINDER SINGH SIDHU, J.

This petition has been filed praying for directions to quash the order of the District Magistrate, Charkhi Dadri dated 2.2.2018 (Annexure P-1) whereby the application of the petitioner for release on parole has not been recommended. It has also been prayed that the respondents be directed to release the petitioner on parole.

The petitioner is undergoing life imprisonment in case FIR No.46 dated 27.6.2014 under Sections 302, 201, 364, 34 IPC, Police Station Purana Shalla after his conviction by the Trial Court. His appeal is pending adjudication before this Court.

The petitioner submitted an application to the Superintendent, District Jail, Gurdaspur for grant of parole to meet his family members. The District Magistrate, Charkhi Dadri vide his communication dated 2.2.2018 (Annexure P-2) addressed to the Additional Director General of Police (Prisons), Punjab did not

recommend the case of the petitioner for his temporary release. He relied on the report of the Superintendent of Police, Charkhi Dadri and Tehsildar, Charkhi Dadri. In the report, it was mentioned that there are nine members in the family of the petitioner including him. All the family members reside in the village. They are engaged in agriculture. The wife of the petitioner has been declared 'Proclaimed Offender'. There is party faction in the village and if the petitioner is released on parole there is apprehension that he may abscond or may commit crime. One Rambir son of Inder Singh, Village Nauranga Bas Rajputana, District Charkhi Dadri submitted an application dated 3.1.2018 that if the petitioner is released on parole then there is threat to his life and his family as there is grudge between them.

In the reply filed on behalf of the respondents, it has been stated that after receipt of the aforesaid recommendation dated 2.2.2018, the case was again sent to the District Magistrate, Charkhi Dadri requesting him to send verification/recommendation in the light of the directions given in CRWP No.34013 of 2009. The District Magistrate, Charkhi Dadri sent his report dated 10.05.2018 (Annexure R-3/T) wherein, the release of the petitioner has again been not recommended. The earlier reasons have been reiterated. Thus, the release of the petitioner has not been recommended on the grounds that he may commit offence if released, he may abscond, and on account of party faction in the village.

None of the aforesaid grounds justify denial of parole to the petitioner.

So far as the apprehension of the petitioner committing any crime in case of release is concerned, it has been held by Division Bench of this Court in

Ram Chander Vs. State of Punjab and others 2017(3) RCR(Cr) 340 that

likelihood of committing a crime while on parole would not be a sufficient ground

to deny temporary release on parole as merely likelihood of committing a crime is not to be taken as apprehension of a threat to the security of the State or maintenance of public order.

The ground that there is a possibility of the petitioner absconding or involving in other crime 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. 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 four 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 four weeks of his release.

March 13, 2019

(HARINDER SINGH SIDHU)

JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No