

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

CWP-31178-2018

Date of Decision: 21.11.2019

Anil Kumar

....petitioner

Versus

State of Haryana and others

.....respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.R.S.Dhull, Advocate
for the petitioner

Mr.Kapil Bansal, DAG Haryana

RAJIV NARAIN RAINA, J. (ORAL):

Through this petition, the petitioner has sought for a writ in the nature of certiorari for quashing of the speaking order dated 10.11.2018 (P-1) passed by respondent No.4 whereby furlough case of the petitioner has been declined.

The petitioner is serving life sentence for murder. As per the custody certificate filed today in the Court, which is taken on record, he has spent 04 years, 06 months and 18 days including custody as under trial which was 03 years, 03 months and 28 days. Post conviction he has served sentence for 01 year, 02 months and 20 days.

The petitioner was granted interim bail for 10 days on 07.06.2016 to attend to his ailing father by the Court of Addl.Sessions Judge, Faridabad. Thereafter, on 09.03.2018, the same Court granted interim bail for 04 days for the petitioner to attend the funeral

ceremonies of his father who died of cancer. Both times, he surrendered back in jail in time.

The petitioner applied for furlough which has been declined by the Jail Superintendent, District Jail, Faridabad, for the reason that he has not completed the continuous period of three years including trial in jail.

Jail Superintendent, District Jail, Faridabad, refused to initiate his case for consideration by the District Magistrate, Faridabad and the Commissioner, Faridabad. The Jail Superintendent ought to have remitted the case to the District Magistrate and Commissioner for their decisions as he cannot be treated as a final authority. This Court is also not in a position to intervene in the absence of final order passed by the State Government through District Magistrate or the Commissioner, who are free to take a view of the claim for furlough in the totality of the circumstances paying due regard to the fact that twice over i.e. 2016 and 2018 the learned Additional Sessions Judge, Faridabad, granted short term bail to the petitioner as mentioned above.

Accordingly, this petition is disposed of with a direction to the Jail Superintendent, Faridabad to forward the case of the petitioner to the District Magistrate, Faridabad, for his consideration. The District Magistrate Faridabad, would decide the representation within 21 days as fixed in the DGP (Prisons) Instructions dated 22.06.2018. In case, he declines the request, then the petitioner will have a right of his case being put up before the Commissioner, Faridabad for passing

of the final order. He would also comply with the timeline fixed in the instructions and decide the case of the petitioner within 5 days.

21.11.2019

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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No