

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

CRWP-235-2020

Date of Decision:-22.1.2020

RAJESH @ CHOTE

... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

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

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking quashing of order dated 18.12.2019 (Annexure P-1) passed by learned Chief Judicial Magistrate, Jhajjar vide which the petitioner has been ordered to be committed back to the Jail cutting short the period of his parole which had been granted vide order dated 18.11.2019 passed by this Court.
2. Although notice of motion had been issued to the State but no reply is forthcoming.
3. The petitioner was involved in two FIRs i.e. FIR No.276 dated 26.9.2007 under Sections 148, 149, 302, 307, 449, 452 of IPC and Section 25 of Arms Act, Police Station Sadar Bhadurgarh, Jhajjar and FIR No.296 dated 27.10.2007 under Sections 148, 149, 302, 120-B IPC and Sections 25 of Arms Act, Police Station Sadar Bhadurgar Jhajjar. The petitioner was tried

in respect of both the cases and was convicted by the Court of learned Sessions Judge, Jhajjar. The petitioner thereafter filed separate appeals challenging his conviction in both the FIRs.

4. Some of the relevant dates may be stated chronologically as follows:-

30.10.2019

The appeal filed by the petitioner challenging his conviction in respect of FIR No.296 dated 27.10.2007 was accepted by this Court and the petitioner was acquitted.

13.11.2019

The appeal filed by the petitioner challenging his conviction in respect of FIR No.276 dated 26.9.2007 bearing CRA-D-440-DB-2013 was dismissed. The petitioner in any was in custody undergoing his sentence.

18.11.2019

CWP-28725-2019 filed by the petitioner seeking grant of agricultural parole was accepted on 18.11.2019 (Annexure P-2) and the petitioner was ordered to be released on parole for 6 weeks.

11.12.2019

The learned Chief Judicial Magistrate, Jhajjar passed impugned order dated 11.12.2019 (Annexure P-1) ordered for committing the petitioner in jail on account of dismissal of his appeal i.e. CRA-D-440-DB-2013

wherein the conviction of petitioner in respect of FIR
No.276 dated 26.9.2007 had been upheld.

4. I have heard learned counsel for the petitioner and also learned State counsel.
5. The aforestated facts would clearly show that when the petitioner was ordered to be released on parole vide order dated 18.11.2019 (Annexure P-2), he already stood acquitted in one of the cases i.e. the case arising out of FIR No.296 dated 27.10.2007 whereas his appeal challenging his conviction in the case arising out of FIR No.276 dated 26.9.2007 stood dismissed vide order dated 13.11.2019. In these circumstances, when this Court had ordered for release of the petitioner on parole for 6 weeks after dismissal of his appeal i.e. CRA-D-440-DB-2013, there was no question for curtailing period before the expiry of said period of 6 weeks and direct him to undergo remaining part of the sentence. The petitioner could have been remitted back only after expiry of 6 weeks.
6. A perusal of the impugned order, however, shows that the factum of petitioner having been granted parole by this Court was not brought to the notice of learned Chief Judicial Magistrate which ought to have been brought to his notice. In these circumstances it is apparent that impugned order dated 11.12.2019 came to be passed on account of requisite information not having been furnished to the said Court. Consequently, the impugned order cannot sustain and is hereby set aside.
7. Since learned counsel for the petitioner has informed that pursuant to order dated 18.11.2019 (Annexure P-2) passed by this Court, the petitioner was in fact released on only 25.11.2019 and had availed only 14 days of parole

before he was remitted back in jail on 11.12.2019, therefore it is ordered that the petitioner be permitted to avail of remaining period of parole out of 6 weeks' parole as granted to him vide order dated 18.11.2019 subject to his furnishing fresh surety bonds to the satisfaction of District Magistrate Jhajjar.

7. The petition stands accepted in the aforementioned terms.

22.1.2020
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No