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

CRWP No.1471 of 2019

Date of Decision: 07.02.2020

Dharmender

.....Petitioner

Vs

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Sarla Chaudhary, Advocate
for the petitioners.

Mr. Surender Singh, AAG, Haryana.

RAJ MOHAN SINGH, J. (Oral)

Petitioner seeks grant of furlough for 15 days in order to meet his old mother in view of Section 4 of the Haryana Good Conduct Prisoner's Temporary Release Act, 1988.

The prayer has been rejected by the Divisional Commissioner, Rothak on the ground that the petitioner is undergoing life imprisonment in FIR No.15/2014 registered under Sections 302, 307, 120-B, 216, 34 IPC. In addition to the aforesaid case, four other cases were also registered against the petitioner and he is a habitual offender. Reference of FIR No.724/2018 has also been given in the order, wherein it has

been alleged that he has violated the condition of parole. Ultimately, the prayer for grant of furlough has been rejected on the ground that in case of his release on furlough, he may break the conditions and may abscond.

Superintendent of Police and District Magistrate, Jhajjar have not recommended the case of the petitioner for furlough.

Learned counsel for the petitioner states that the petitioner had availed agriculture parole for 24 days from 06.11.2018 to 30.11.2018 and he had surrendered on time. He again sought house repair parole for 9 days from 19.07.2018 to 29.07.2018 and he had surrendered on time. Furlough of 21 days was granted to the petitioner from 08.01.2018 to 30.01.2018 and the petitioner had surrendered on time. Four other cases were registered against the petitioner. In FIR No.50/2014 under Sections 25/54/59 of the Arms Act, Police Station Dwarka, South West Delhi, petitioner is on bail. Similarly in FIR No.437/2011 under Sections 120-B, 148, 149 IPC and Section 25 of the Arms Act, Police Station Jhajjar, the petitioner is on bail. In FIR No.129/2012 under Section 392 IPC, Police Station Sadar Bahadurgarh, Jhajjar, he has been acquitted and in FIR No.724/2018 under Sections 25, 54, 59 of the Arms Act, Police Station Shivaji Colony, Rohtak, he has been acquitted.

Learned State counsel has filed reply by way of affidavit

of Sewa Singh, Deputy Superintendent, District Jail, Rohtak and submits that there is an apprehension of breach of peace and public tranquility in view of the fact that the petitioner had earlier violated the condition of parole in FIR No.724/2018 under Sections 25, 54, 59 of the Arms Act, Police Station Shivaji Colony, Rohtak.

In the light of aforesaid facts, it cannot be presumed from the record that the petitioner may abscond or may violate the conditions of furlough by any stretch of imagination. The apprehension of the authority is found to be non-existent. The Sarpanch of the Gram Panchayat, Bupania (Jhajjar) has also recommended the case of the petitioner for release on furlough that there is no apprehension of breach of peace and public tranquility, if the petitioner is released on bail for a period of 15 days.

Since the petitioner has already been acquitted in FIR No.724/2018, therefore the apprehension also appears to be non-existent.

Taking into consideration the totality of facts and circumstances of the case, I deem it appropriate to set aside the impugned order. This petition is accordingly accepted. Competent Authority is directed to proceed with the case for granting furlough to the petitioner for 15 days subject to lawful

criteria to be followed and conditions to be imposed by the Authority in accordance with norms.

Disposed of.

07.02.2020

(RAJ MOHAN SINGH)
JUDGE

Prince

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No