

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRWP-1944-2019 (O&M)
Date of Decision:-21.1.2020

Anil @ Chota Dhaba

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Ravinder Bangar, Advocate for the petitioner.

Mr. Ashok Singh Choudhary, Addl. Advocate General, Haryana
assisted by ASI Naresh.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner Anil @ Chota Dhaba has approached this Court challenging order dated 10.9.2019 (Annexure P-1) vide which the Commissioner, Gurugram Division, Gurugram has declined the request of the petitioner for his release on agriculture parole.
2. The learned counsel for the petitioner has submitted that while declining the case of the petitioner for his release on agriculture parole, the Commissioner has referred to an incident of a murder inside the jail premises in which one co-prisoner was killed whereas the petitioner stands acquitted in the said case.
3. Opposing the petition, the learned State counsel has submitted that since the credentials of the petitioner show that he is a seasoned criminal, having been involved in two cases of heinous crime, no case for grant of agriculture parole is made out. The learned State counsel has further submitted that

upon verification, the police has reported that in case the petitioner is released on parole there are chances of eruption of gang war as the petitioner belongs to a gang known as '*Badli Gang*'.

4. I have considered rival submissions addressed before this Court.
5. The Commissioner, Gurugram while declining the case of the petitioner for grant of agriculture parole vide order dated 10.9.2019 (Annexure P-1) assigned the following reasoning, as extracted from the said order :-

“A perusal of the report of District Magistrate, Jhajjar, Superintendent of Police, Jhajjar and Superintendent District Jail, Gurugram, shows that the prisoner has been convicted and awarded sentence of imprisonment for life each in all the two cases. The prisoner is under trial in one other case which relates to heinous crime. This implies that the prisoner is a habitual offender. Further, he was involved in a violent brawl inside the jail premises in which one co-prisoner was killed. It shows that the conduct of the prisoner is not satisfactory even inside the Jail. As per report of the District Magistrate, Jhajjar, there may arise a situation of gang-war in the village if the prisoner is released on parole. Keeping in view the above facts I am satisfied that the release of the prisoner is likely to endanger the maintenance of public order and is not appropriate in the public interest.”

6. Pursuant to order dated 9.1.2020 passed by this Court, a short reply by way of affidavit of Sh. Jai Kishan Chhillar, Superintendent, District Jail, Gurugram has been filed wherein the details of the parole and furlough availed of by the petitioner on earlier occasions has been mentioned as follows :-

“10. That, the petitioner has availed 07 times parole and 02 times furlough, whose details is as under :-

- a. 06 weeks Agriculture Parole from 21-09-2016 to 03-11-2016
(surrendered on due date)
- b. 04 weeks House Repair Parole from 19-12-2016 to 17-01-2017
(surrendered on due date)
- c. 12 Days Marriage Parole from 27-02-2017 to 12-03-2017
(surrendered on due date)
- d. 03 weeks Agriculture Parole from 03-06-2017 to 25-06-2017
(surrendered on due date)
- e. 03 weeks Agriculture Parole from 03-10-2017 to 25-10-2017
(surrendered on due date)
- f. 03 weeks Furlough Parole from 29-05-2018 to 20-06-2018
(surrendered on due date)
- g. 06 weeks Agriculture Parole from 31-08-2018 to 13-10-2018
(surrendered on due date)
- h. 15 Days School Admission Parole from 13-01-2019 to 29-01-2019
(surrendered on due date)
- i. 10 Days Furlough from 28-11-2019 to 07-12-2019 (Given vide order of the Hon'ble High Court Chandigarh passed in CWP No. 33485 of 2019 (surrendered on due date)."

7. A perusal of the aforesaid details would show that the petitioner has always surrendered back in time after availing parole/furlough.
8. In view of the aforestated position which reflects that the petitioner already stands acquitted in the alleged murder, which had taken place in the jail premises regarding which FIR No. 283 of 2014 registered under Sections 148/149/323/324/120-B/302/303/34 at P.S.Bhondsi, Gurugram was lodged and also the fact that during all the nine occasions when he was released on parole or furlough during the period 2016 to 2019, he has always surrendered back in time and is not even covered under the category of 'hardcore prisoner', the impugned order cannot sustain and is hereby set

aside. The petitioner is ordered to be released on agriculture parole for three weeks i.e. from 22.1.2020 upto 11.2.2020, subject to his furnishing adequate sureties to the satisfaction of District Magistrate, Gurugram. The petitioner shall surrender back before the Jail authorities by the evening of 11.2.2020.

21.1.2020

kamal

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No