

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

CRWP No.2323 of 2019
Date of decision: 9th June, 2020

Mayank Chaudhary

... Petitioner

Versus

State of Haryana & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Susheel Gautam, Advocates for the petitioner.

Mr. Baljinder S. Virk, Dy. Advocate General, Haryana
for the respondents/State.

FATEH DEEP SINGH, J. (ORAL)

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

Petitioner Mayank Chaudhary, who has been convicted in case bearing FIR No.105 dated 06.03.2013 under Sections 302, 120-B, 34 IPC and sections 25, 54, 59 of the Arms Act pertaining to Police Station Palam Vihar, Gurgaon and sentenced to undergo life imprisonment vide judgment and order dated 20.03.2015, had applied for furlough for three weeks under Section 4(1)(a) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (in short, 'the Act') which was declined by the Commissioner, Karnal Division, District Karnal through impugned orders dated 04.12.2019 (Annexure P1) and which has been challenged

before this Court by way of this criminal writ petition with the aid of article 227 of the Constitution of India.

Learned State counsel has filed its reply by way of short affidavit of Superintendent of Prison, District Prison, Karnal.

Heard Mr. Susheel Gautam, Advocates for the petitioner; Mr. Baljinder Singh Virk, Dy. Advocate General, Haryana representing the respondents/State and perused the records.

Besides the present case in which the petitioner is in judicial custody, he has been found guilty in few other cases including FIR No.273 of 2013 and FIR No.39 of 2014, both under Section 42-A of the Prisoners Act pertaining to Police Station Bhondsi, District Gurugram in which he has undergone the sentence; FIR No.47 dated 25.01.2018 under Section 42-A of the Prisoners Act registered at Police Station Sadar Ballabgarh, in which he has been acquitted. Besides, he has been acquitted in case FIR No.444 of 2013 under Section 506 IPC and Section 66-A of the Immoral Trafficking Act pertaining to Police Station Palam Vihar.

The State has taken a categorical stand that earlier in the year 2015, when the petitioner was released on interim bail, he absconded and remained so for one year, three months and ten days. The Superintendent, District Jail, Karnal in his report to the District Magistrate, Gurugram had recommended the release of petitioner on parole. The District Magistrate, Gurugram as is reflected from his orders dated 22.05.2020 after seeking

report of the Tehsildar, which recommended the case of the petitioner, recommended the release of petitioner on parole to the Divisional Commissioner, Karnal. However, the Commissioner, Karnal Division, Karnal vide orders dated 04.06.2020 has declined the prayer on the grounds that the petitioner's release would not be in the interest of the society being a criminal.

After hearing arguments of the two sides, it is fairly conceded at the bar by learned State counsel that the petitioner fully qualifies for release on parole under the Act but has shown his apprehension that if released on parole there is every likelihood of his absconding. However, the counsel on the reports received from the concerned authorities, fairly concedes that marriage of Saurabh Chaudhary, younger brother of the petitioner, is to be performed on 10.06.2020 and that of his sister Tarika on 20.06.2020 and that both of their parents have died and that the petitioner is the lone family member. In the light of these peculiar circumstances, the fact that the petitioner fully qualifies for temporary release on parole in view of the Rules and that earlier the District Magistrate in his report has duly recommended the release based on the reports of Tehsildar etc. However, the Commissioner has declined the prayer and there is no substantial reason detailed therein and without independent application of mind, summarily has rejected the same in utter violation of the principles of natural justice.

There are overwhelming reasons as has been detailed before this Court on account of marriage of younger brother and younger sister of the petitioner and his presence at the time of ceremonies is essential when there is no other family member, impels this Court to accede to the prayer of the petitioner. In view thereof, the orders (Annexure P1) of the Commissioner, Karnal Division, District Karnal are hereby set aside and it is ordered that the petitioner shall be released on parole with effect from 10.06.2020 till 21.06.2020, subject to his furnishing personal bonds in the sum of ₹ 5.00 lac and two sureties each in the like amount to the satisfaction of Illaqa Magistrate/Duty Magistrate, District Magistrate, Karnal and the petitioner shall surrender before the Superintendent, District Jail, Karnal on 22.06.2020 at 10.00 a.m.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

June 9, 2020

rps

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No