

SANDEEP CHAHAL

... PETITIONER

V/S

STATE OF HARYANA AND OTHERS

... RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN
HON'BLE MR. JUSTICE VIVEK PURI**

Present: Mr. Randeep Singh Dhull, Advocate for the petitioner.

Mr. Raman Kumar Sharma, Additional Advocate
General, Haryana.

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JITENDRA CHAUHAN , J. (ORAL)

The matter has been taken up through video conferencing in the light of the pandemic Covid-19 situation and as per instructions.

Prayer in the present petition filed under Articles 226/227 of the Constitution of India read with Section 4(1) and Section (6) of Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 is for issuance of writ in the nature of certiorari for quashing of order dated 16.1.2021 (Annexure P-1) passed by the Commissioner, Rohtak Division, Rohtak whereby request for grant of furlough of the petitioner was declined.

Learned counsel for the petitioner submits that there is no application of mind by the State Authorities of Haryana and the furlough has been declined on the basis of the report dated 16.11.2020 (Annexure P-2) furnished by SDM Nazafgarh, Delhi which is further based on the report dated 17.8.2020 received from ACP, Legal Cell for Deputy Commissioner

of Police, Dwarka, District Delhi. The petitioner is involved in another FIR bearing No. 500 dated 6.6.2015 registered under Section 392, 394 IPC and Section 25 of the Arms Act at Police Station Sadar Gurugram, wherein he is on bail. The report dated 17.8.2020 specifically records that the petitioner is not a habitual offender and the furlough has been declined on the apprehension that he may create law and order problem in the Society and jump the furlough.

On the other hand, learned State counsel opposes the prayer made and submits that peaceful atmosphere of the village can be disturbed in case the petitioner is released on furlough.

Heard.

Despite sufficient opportunities and specific directions dated 22.3.2021, detailed reply indicating as to whether the petitioner ever was on bail and such concession was misused by him and that he was ever allowed parole or not, was not filed for the reasons best known to the authorities.

In Chand Singh Versus State of Punjab 1996 (3) RCR Criminal 230, this Court had observed as under:-

“It is the duty of the District Magistrate and the Superintendent of Police to maintain law and order in the area. If there is an apprehension for breach of peace, it is the duty of the police and the District Magistrate to look into the matter and give protection to the people who are expecting such danger from, the release of the accused on parole. The law laid down is that no body can be released if his release is detrimental to the security or integrity of the country. The mere allegation that there is apprehension of breach of peace is no criteria on the basis of which the Inspector General of Prisons can refuse the release of the petitioner on temporary parole for a specified period as laid down in the section.”

In the instant case, considering the fact that there is no evidence of any misuse of parole or bail or any Court order on record and in view of the ratio of law laid down in **Chand Singh's** case (supra), this Court is inclined to accept the prayer of the petitioner.

Accordingly, the present petition is allowed and the petitioner is granted three weeks furlough, subject to his furnishing indemnity bond with two local sureties of the like amount to the satisfaction of the competent authority/Duty Magistrate. The petitioner shall surrender before the jail authorities on the date and time to be noticed by the releasing Court/Duty Magistrate.

For non-filing of detailed reply despite specific communication sent by the learned State counsel to the concerned officer, namely, ASI Satish, Police Station Ganaur, Distict Sonapat, the Superintendent of Police, Jhajar is directed to initiate appropriate proceedings against the errant/negligent official immediately. The report thereof be sent to the Registrar General of this Court within thirty days from the receipt of certified copy of the order.

[JITENDRA CHAUHAN]
JUDGE

[VIVEK PURI]
JUDGE

06.04.2021
Janki

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No