

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

CRWP NO.7550-2021
Date of Decision: 13.08.2021

KAMAL KAPOOR

....PETITIONER..

Versus

STATE OF HARYANA AND ORS.

....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present : Mr. Anmol Partap Singh Mann, Advocate
for the petitioner.

Mr. Vivek Saini, Addl.A.G., Haryana.

SANT PARKASH , J.

*(The aforesaid presence is being recorded through video conferencing
since the proceedings are being conducted in virtual court)*

Instant petition has been filed under Article 226/227 of the Constitution of India for setting aside order dated 06.07.2021 (Annexure P-2) passed by Divisional Commissioner, Ambala Division-respondent No.3, whereby case of the petitioner seeking furlough/parole has been rejected. And further for issuance of direction to the respondents to release the petitioner on furlough for three weeks in accordance with the provisions of Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, as amended till date (for short 'Act').

The petitioner was tried in FIR No.204 dated 15.04.2018, under Sections 302, 201 IPC and Sections 27/29 of the Arms Act, Police Station City Yamunagar and accordingly, he has been convicted and sentenced for

life imprisonment. Against the judgment of conviction and order of sentence, petitioner filed an appeal before this Court, which is still pending admitted for final adjudication.

Learned counsel for the petitioner submits that earlier the petitioner moved an application before Superintendent District Jail, Yamunagar for seeking furlough/parole under the provisions of the Act and his case was sent to the Divisional Commissioner, Ambala Division, after completing all the formalities. But the parole case of the petitioner has been rejected vide order dated 06.07.2021 (Annexure P-2) on the basis of report of the Superintendent of Police, Yamunanagar and that the Collector, Yamunanagar has not recommended to release the convict on furlough as the weapon used in the commission of crime was not recovered and if the convict is released on parole/furlough, peace in the area may be disturbed.

On the other hand, learned State counsel strongly opposes the submissions made by learned counsel for the petitioner and prays for dismissal of instant petition.

After having heard learned counsel for the parties and perusing the paper book, this Court is of the considered opinion that the authority rejecting the parole has exercised its jurisdiction on the basis of the facts collected for considering the request of the petitioner for releasing him on parole. It has been specifically mentioned in the impugned order (Annexure P-2) that the licenced weapon with which the prisoner committed the murder, has not been recovered. If such type of convict is enlarged on parole, peace may be disturbed.

Otherwise also, it is the subjective satisfaction of the authority concerned to evaluate the circumstances seeking parole. Unless and until some arbitrariness or malafide is apparent in the order of the said authority, only then, this Court should intervene under Article 226 of the Constitution of India.

In view of the above, we do not find any merit in the instant petition and same is accordingly dismissed.

**(JASWANT SINGH)
JUDGE**

**(SANT PARKASH)
JUDGE**

13.08.2021
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whether speaking/reasoned: Yes/No
whether reportable: Yes/No