

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

CRWP-7899-2020 (O&M)
Date of Decision:-12.1.2021

Jumaa @ Amin

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Rahul Deswal, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner seeks issuance of directions to respondents No.2 and 3 to accept the surety bonds furnished by the petitioner for his release on furlough.
2. It is averred in the petition that the petitioner stands convicted vide judgment dated 26.2.2010 passed by learned Sessions Judge, Jind in respect of FIR No.189 dated 7.4.2007 registered at Police Station City Jind, District Jind under Sections 302, 34, 411, 148 and 149 of Indian Penal Code and that the conviction of the petitioner for offence under Section 302 IPC stands affirmed consequent upon dismissal of his appeal by the High Court i.e. CRA-D-594-DB of 2009. It is the case of the petitioner that he has been

confined for the last more than 13 years and that respondent No.3-The Superintendent of Jail, Neemka District Jail, Faridabad, upon finding that the petitioner was entitled to avail furlough, had initiated his case and ultimately the petitioner was ordered to be released on furlough for a period of 2 weeks vide order dated 28.2.2020 (Annexure P-1) passed by the Commissioner, Faridabad Division, Faridabad.

3. Learned counsel for the petitioner has submitted that despite the fact that the Commissioner, Faridabad Division, Faridabad had ordered for release of the petitioner on furlough subject to his furnishing a bail bond and two sureties in the sum of ₹2 Lakhs each, apart from other conditions, he is not being released though he had furnished a personal bond as well as two sureties, which were also found to be adequate. Learned counsel, in this regard, has referred to letter dated 12.8.2020 (Annexure P-2) written by learned District Magistrate, Meerut, the relevant extract of which reads as follows:

“In compliance of instructions issued by your goodself, verification of the surety bonds of the sureties namely Shri Sabu son of Abdul Rehman alias Gallad and Shri Charan Singh son of Karan Singh resident of Town and PS Falavada District Meerut for the convict accused/Convict No.791/C Jumma alias Amin son of Khacheru was got conducted by Tehsildar Mawana, District Meerut. In the report of Tahsildar Mwana, it is mentioned that Shri Sabu son of Adul Rehman @ Gallad and Shri Charan Singh son of Karan Singh residents of Town and PS Falavada, District Meerut are capable to furnish the surety bonds of Rs.2,00,000/- each (Two Lac Rupees) in favour of the convict.

As per the report No.DCRB/Furlough/Jumma alias Amin/2020 dated 03.07.2020 of Senior Superintendent of Police, Meerut, it has been reported that if the accused/convict Jumma alias Amin son of Khacheru resident of Mohd. Kani Patti, PS Falavada, District Meerut is released on parole then there is apprehension of absconding and there is possibility that the accused will not surrender himself within time to District Jail,

Faridabad. Keeping in view the above, the release of accused/convict Jumma alias Amin son of Khacheru resident of Mohd. Kani Patti, PS Falavada, District Meerut on parole (furlough) for 2 weeks is objected to and the same is not recommended. Copy enclosed.

So, agreeing to the report of Senior Superintendent of Police, Meerut, the release of accused/convict no.791C Jumma alias Amin son of Khacheru resident of Mohd. Kani Pati, Falavada, District Falavada, District Meerut on 02 weeks parole is strongly objected and is not recommended.”

4. It has been submitted that once an order for release of the petitioner on furlough had been passed by a competent authority i.e. by the Commissioner, the District Magistrate was obliged to comply with the order provided the petitioner satisfied all the conditions including furnishing of the surety bonds and bail bonds. It has been submitted that although the sureties were found to be sound but the District Magistrage solely on the basis of a report of Senior Superintendent of Police, Meerut has chosen not to accept the surety bonds. It has further been submitted that the petitioner as on date has undergone actual sentence of 13 years and 9 months and that he would shortly be eligible to be considered for pre mature release and, as such, at this stage he cannot possibly think of fleeing so as to *jeopardize* his chances of pre mature release and would certainly report back after availing the furlough.
5. Opposing the petition, learned State counsel has submitted that the District Magistrate objected to release of the petitioner as a report from Senior Superintendent of Police, Meerut had been received to the effect that the petitioner, if release on parole, is likely to abscond.
6. I have considered rival submissions addressed before this Court.

7. It remains unexplained as to how a District Magistrate can object to release of the petitioner on furlough after a higher authority i.e. the Commissioner had granted furlough to the petitioner, particularly when the petitioner is satisfying the conditions, subject to which the parole has been granted particularly the condition regarding furnishing of two surety bonds of ₹2 Lakhs each. Further, it is not a case that the petitioner is stated to be a seasoned criminal or is stated to be involved in a large number of other cases, which could be an indicator of chances of the petitioner to flee from justice. Further, in the instant case the petitioner is virtually on verge of completion of his sentence as there could be a likelihood of his being pre maturely released upon completion of the period prescribed by the State of Haryana for pre mature release as he has already undergone 13 years and 9 months of his sentence.
8. In view of the foregoing reasons, the petition is accepted and respondent No.4-The District Magistrate, Meerut, District Meerut, Uttar Pradesh is directed to accept the surety bonds in case the surety bonds are found to be sound, so that the petitioner is able to avail of furlough provided he satisfies the other conditions as prescribed in order dated 28.2.2020 (Annexure P-1) for release of the petitioner on furlough.
9. The petition stands accepted accordingly.

12.1.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No