

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

CRWP No. 370 of 2022
Date of decision: 04.04.2022

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Sonu

....Petitioner(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

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

Mr. Kuldeep Tiwari, Addl. A.G., Haryana.

G.S.SANDHAWALIA, J. (Oral)

The petitioner, in the present criminal writ petition filed under Article 226 of the Constitution of India, seeks the benefit of furlough for a period of 3 weeks to meet the family members in view of Section 4(1)(a) of the Haryana Good Conduct Prisoners Temporary Release Act, 1988 (in short 'the Act'). Challenge has also been raised to the order passed by the Commissioner, Karnal Division, Karnal dated 01.12.2021 (Annexure P-1) whereby, his claim for the said benefit has been rejected on the ground that the District Magistrate, Shamli, U.P. while agreeing with the report of the S.P., Shamli U.P. has not recommended prisoner's furlough to meet his family and, therefore, the said order has been passed.

It is to be noticed that while passing the impugned order, the Commissioner had noticed that the petitioner had availed one parole peacefully and while noticing that FIR No. 1104 of 2015 dated 04.08.2015 under Sections 460, 120-B IPC, P.S. City Panipat is there (whereas, the correct FIR number is

FIR No. 1044 dated 04.09.2015 under provisions of Section 201, 302, 364-A,

120B and 34 IPC, P.S. Chandni Bagh, Panipat), as per the reply now filed. The reply of the Superintendent of Prisons, District Prison, Karnal also goes on to show that the petitioner has availed one time parole from 13.05.2021 to 26.09.2021 and has surrendered back in the jail on due date. Custody certificate dated 30.03.2022 would also go on to show that he had availed parole of 19 weeks and 2 days.

Thus, there is nothing on record to show that even when he was on parole earlier, there was any threat to any person or he had committed any such adverse act. On account of apprehension or on the non-recommendation by the Deputy Commissioner, Shamli, the impugned order has been passed. Even otherwise, apparently the purpose and provisions of the Act have been lost sight off by the Commissioner. Merely on account of a mechanical report of the District Magistrate that there will be breach of peace is not a sufficient ground to deny the benefit of furlough. It had been time and again held that the release of convict on furlough is a wing of reformatory process and the object as such under the Act is that there should be good conduct in the jail on the basis of which the prisoner earns his furlough. It is a kind of incentive which is granted for good behaviour, which aspect has been lost sight by the Commissioner while rejecting the case. The Apex Court in ***Asfaq vs. State of Rajasthan and others, (2017) 15 SCC 55***, has discussed the issue of parole and furlough in a humanistic approach which is to be taken and that it will help the offenders to prepare for success. In ***CRWP No. 21 of 2022, Jitender vs. State of Haryana and others, decided on 04.03.2022***, this Court has also held to the same extent while placing reliance upon the judgment of the Division Bench in ***Ram Chander vs. State of Punjab and others, 2017 (3) RCR (Crl.) 340*** that the benefit of furlough is regulated by Statute and the authorities cannot

act arbitrarily, capriciously or without due application of mind. Declining the request for parole or furlough only for the reason of apprehension of breach of peace, for which there is no such condition under the Act, was held not to be justified.

Resultantly, the impugned order dated 01.12.2021 (Annexure P-1) cannot be sustained and is accordingly quashed. The present criminal writ petition is allowed. The petitioner is granted furlough for a period of 3 weeks and he be released on furnishing the requisite bail bonds to the satisfaction of the competent authority and he shall surrender back in time in the jail on the expiry of the said period after his release.

(G.S. SANDHAWALIA)
JUDGE

04.04.2022
shivani

(VIKAS SURI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No