

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

**CRWP No.675 of 2022
Date of decision: 08.04.2022**

Sandeep

....Petitioner

Versus

State of Haryana and others

...Respondent

**CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE PANKAJ JAIN**

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

Ms. Shubhra Singh, Addl. Advocate General, Haryana.

PANKAJ JAIN, J.

Petitioner - a convict undergoing imprisonment has approached this Court under Article 226/227 of the Constitution of India for grant of a writ in the nature of certiorari for quashing of the order dated 3rd January, 2022 passed by the Commissioner Rohtak Division, Rohtak whereby prayer made by the petitioner for furlough has been declined.

2. Petitioner is a convict in FIR No.549 dated 9th September, 2018 registered for the offences punishable under Sections 304-B, 302, 201, 34 of the Indian Penal Code, at Police Station Shivaji Colony, District Rohtak. Appeal preferred by him i.e. CRA-D-219-2021 is pending consideration before this Court.

3. As per the petitioner, his case is fully covered under the bare

provisions of Sections 4 and 6 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for short, 'the Act') and he is thus entitled for temporary furlough. He also relies upon the Certificate issued by the Gram Panchayat, Shimili, District Rohtak whereby it has been certified that release of the petitioner on furlough will have no threat to the village. Thus, he claims the rejection by the Authorities vide order dated 3rd January, 2022 is unsustainable.

4. Ld. Counsel for the petitioner relies upon the decision passed by this Court in **CRWP No.799 of 2017** titled as '**Tarsem Singh vs. State of Punjab and others**', whereby it has been held that -

“[5] We do not find any substance in the three-fold objections raised by the respondents. Firstly, the meeting with some of the family members in the jail premises for a short duration has no parity with the petitioner staying together with his family members while on parole. There is a mark difference between the two meetings. Secondly, apprehension that the petitioner would abscond, has no factual basis. There are no past instances where the petitioner attempted to flee from law. The violation of law and order by the petitioner also appears to be a mere apprehension, for there is neither any other case registered against him under the NDPS Act nor under any penal law.”

5. In response to the petition, reply has been filed by way of affidavit of the Deputy Superintendent, District Jail Rohtak, on behalf of the State, whereby the order declining furlough has been defended pleading that -

“5. That a prisoner shall not be entitled to be released on parole/furlough if it is likely to endanger the security of the state or the maintenance of public order or cause reasonable apprehension of breach of peace as per Section 6(1) of Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 which has been substituted by Amendment Act 2012. Relevant part of amended Section 6(1) is reproduced as under :

“Notwithstanding anything contained in sections 3 and 4, no prisoner shall be entitled to be released under this Act if, on the report of the District Magistrate, the State Government or an officer authorized by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order or cause reasonable apprehension of breach of peace.”

6. That the furlough case of the petitioner has been rejected by the Commissioner, Rohtak Division Rohtak on the ground that if the petitioner/convict released he may jump furlough and breach peace in the village. The family members of petitioner/convict i.e. his parents, sister and brother could meet him at the time of interview at jail.

7. That this office also approached the Superintendent of Police, District Rohtak, to provide the information about apprehension about disturbance of peace in case of release of petitioner for furlough in compliance of order dated 25/01/2022 passed by Hon'ble High Court Chandigarh.

8. That the fact has been received on 17-02-2022 from the Superintendent of Police, District Rohtak (Annexure R-1) stated as under :-

“in reference of your office letter No.680 dated 09-02-2022 and 934-35 dated 15-02-2022 on the subject cited above

The report on the subject cited above has been received from the S.H.O., Police Station- Shivaji Colony Rohtak. According to the report, the convict/accused Sandeep son of Ramesh, Village Simli, District Rohtak was undergoing life imprisonment in case FIR No.549/2018 U/s 302, 201 IPC, P.S. Shivaji Colony, District Rohtak. The prisoner can commit any crime after releasing on parole. Due to which the possibility of breach peace in the village can not be ruled out. A part from this, the possibility of causing harm to the complainant party by the prisoner also can not be ruled out and the prisoner may be absent from parole”.

6. We have heard counsel for the parties and have carefully gone through the record of the case. We find that the impugned order rejecting the relief of furlough to the petitioner deserves to be set aside being unsustainable.

7. The meeting with some of the family members in the Jail premises for short duration cannot be equated to the relief of furlough where the petitioner can stay together with his family members. So far as apprehension regarding the breach of peace of village is concerned, the apprehension stands allayed to some extent by the Certificate furnished by Gram Panchayat. There is no past instance on record on the basis of which apprehension w.r.t. absconding of the petitioner can be sustained. The

petitioner is thus held to be entitled to the relief of furlough. Order dated 3rd January, 2022 (Annexure P-1) is hereby set aside. Respondent No.3-District Magistrate, Rohtak is directed to release the petitioner on furlough for a period of three weeks on furnishing of requisite bail bonds by the petitioner to the satisfaction of the Competent Authority.

8. Needless to say that the petitioner shall surrender before the Superintendent, District Jail, Rohtak after the expiry of furlough as directed by the Authorities.

(TEJINDER SINGH DHINDSA)
JUDGE

(PANKAJ JAIN)
JUDGE

April 08, 2022

Dpr

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No