

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

203

CRWP-2275-2022

Date of decision : 02.05.2022

Sunil

Petitioner

V/S

State of Haryana and others

Respondents

**CORAM : HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

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

Mr. Ankur Mittal, Addl. A.G. Haryana and
Mr. Saurabh Mago, A.A.G, Haryana
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Articles 226/227 of the Constitution of India read with Section 3 sub sections (1) (c) and Section 2(c) and Section 6 of the Haryana Good Conduct prisoners (Temporary Release) Act, 1988 for quashing of order dated 23.02.2022 (Annexure P-1) passed by respondent No.2-Divisional Commissioner Karnal Division, Karnal, whereby the request of the petitioner for grant of agriculture parole has been rejected.

Briefly stated, the petition has been filed on the grounds that the petitioner was convicted by learned Sessions Judge, Jind in case FIR No.12 dated 23.01.2017 registered under Sections 302, 201, 420, 467 and 471 of the Indian Penal Code, 1860 and sentenced to undergo rigorous imprisonment for life and to pay fine of Rs.80,000/- and in case of default of payment of fine to further undergo rigorous imprisonment for a period of 02 years and 06 months. The petitioner

has filed criminal appeal CRA-D-785-2019 which is lying pending in this Court. The petitioner approached the respondent No.2 for emergency parole for doing agriculture work. The request of the petitioner was declined by respondent No.2 vide impugned order dated 23.02.2022. Aggrieved against the said order the petitioner has filed the present petition.

Learned Counsel for the petitioner has contended that the petitioner has peacefully undergone sentence period of more than 04 years and availed parole several times earlier. He never misused the concession of parole granted to him. Learned counsel for the petitioner further contended that in view of the provisions of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022, the petitioner is entitled to temporary release on parole.

On the other hand, learned State counsel has opposed the petition by way of reply filed by way of affidavit dated 05.04.2022 of Mr. Sanjay Bangar, Superintendent of Jail, District Jail Kaithal. Learned counsel for the State submits that if parole is granted to the petitioner, he can disturb the State security and maintenance of public order.

We have heard learned counsel for the parties.

The main reason given by the State is that the release of the petitioner on parole could be a danger to the State security and maintenance of public order. This apprehension in itself cannot be made a ground to reject the parole of the petitioner.

A Division Bench of this Court in ***Ram Chander Vs. State of Punjab and others : 2017(3) RCR (Criminal) 340***, while taking into

account the judgment in *CRM-M-34013-2009 titled as 'Varun @ Gullu Vs. State of Haryana and others, decided on 26.04.2010*, had noticed that the benefits of parole and furlough are regulated by a statute and the authorities cannot act arbitrarily, capriciously or without due application of mind. Declining the request of 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 be justified.

In view of the above, the present petition is allowed. The impugned order dated 23.02.2022 passed by the Divisional Commissioner Karnal Division, Karnal is set aside. The respondents are directed to release the petitioner-Sunil S/o Om Parkash on parole subject to imposing reasonable restrictions, if any.

(RITU BAHRI)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

02.05.2022
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No