

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-4173-2022 (O & M)
Date of decision: 12.10.2022

Salim Petitioner

V/s

The State of Haryana and ors. ...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ritesh Tomar, Advocate,
for the petitioner.

Mr. Vikrant Pamboo, DAG, Haryana.

JASJIT SINGH BEDI, J. (Oral)

The present criminal writ petition under Article 226 of the Constitution of India has been filed for the grant of furlough to the petitioner for 02 weeks to meet his family members in view of the Haryana Good Conduct Prisoners Temporary Release Act, 1988.

2. The brief facts of the case are that the petitioner was convicted vide judgment and order dated 12/17.09.2014 passed by the learned Sessions Judge, Panchkula in FIR No. 275 dated 23.10.2013 under Sections 302, 201, 120-B IPC registered at Police Station Chandi Mandir, District Panchkula (Haryana).

3. Against the aforementioned judgment and order of conviction, the petitioner filed a criminal appeal bearing CRA-D-1530-DB-2014 before this Court and the same was disposed of vide judgment dated 20.01.2015.

4. It is the contention of the learned counsel for the petitioner that

sentence, his family members are totally dependent upon him and he belongs to a very poor family, and therefore, had prayed for the grant of furlough for a period of two weeks by moving an appropriate application in this regard.

5. Pursuant to his application, an enquiry was conducted and a report dated 29.11.2021 was submitted by the District Magistrate, Shamli before the Commissioner, Ambala Division. A copy of the report is attached as Annexure P-1 to the petition. In the said report, it is stated that there are a total number of 10 members in the prisoner's (petitioner herein) family including 04 adult members. The petitioner has, otherwise, peacefully served several paroles in the past. However, according to the Superintendent of Police, Shamli, no recommendation has been made for release on parole, and therefore, the prayer for the same was declined by the District Magistrate, Shamli.

6. Based on the aforementioned reports, respondent No.3-The Divisional Commissioner, Ambala Division, Ambala, rejected the case of the petitioner for grant of two weeks' parole vide order dated 08.02.2022 on the ground that the petitioner had committed an offence of murder and was a criminal minded person. It has also been stated that no recommendation was made to approve the furlough applied for by the District Collector and the Superintendent of Police in the case, and therefore, in view of the negative reports, the prayer for furlough was rejected.

7. It is contended by the learned counsel for the petitioner that the impugned order does not consider the fact that all the family members are fully dependent on the petitioner and his conduct in the jail has been satisfactory. In fact, the prayer for the grant of furlough has been rejected arbitrarily since the petitioner cannot be categorised as a hard-core prisoner.

always surrendered on time. He, thus, prays that the present petition be allowed and the respondents be directed to grant 02 weeks' furlough to meet his family members.

8. A reply by way of an affidavit of Lakhbir Singh Brar, Superintendent, Central Jail, Ambala dated 30.05.2022 has been submitted. As per the said reply, the prisoner cannot claim furlough as a matter of right since it is only a concession given for good conduct and on certain conditions provided in the Act. It is also stated that the petitioner's death sentence was commuted to life imprisonment vide judgment dated 20.01.2015 passed by this Court. He was released on special COVID-19 parole on 03.04.2020 and surrendered on 04.04.2021. Subsequently, he was released on COVID-19 parole during the second wave on 22.05.2021 and surrendered back on 26.09.2021. It is, therefore, contended that the petitioner has been released on parole from time to time, and as such, does not deserve 02 weeks' furlough sought by him. Moreso, in the light of the report of the District Magistrate, Shamli (Annexure P-1/R-1) and the Divisional Commissioner, Ambala Division, Ambala (Annexur P-2/R-2).

9. I have heard the learned counsel for the parties at length.

10. Admittedly, the petitioner is a convict and is undergoing sentence of life imprisonment. However, nothing specific has been pointed out in the order (Annexure P-2), which has been based on the reports of Superintendent of Police and District Collector, Shamli to suggest that the petitioner is likely to abscond or was a threat to others if granted the concession. On the contrary, as per the report of the District Magistrate, Shamli, it has been stated that the petitioner has peacefully served several paroles in the past. The same fact has been admitted to be correct in the

special parole on two occasions on account of the COVID-19 pandemic, he surrendered back on time and no complaint whatsoever has been furnished by any person/authority that the conduct of the petitioner while on parole was unsatisfactory.

11. In view of the above, I deem it appropriate to allow the prayer of the petitioner for grant of furlough, and therefore, he is directed to be released on furlough for a period of one week i.e. w.e.f. 18.10.2022 to 24.10.2022. On the expiry of the period of furlough i.e. on 25.10.2022, the petitioner is directed to surrender before the Jail Authorities by 6.00 p.m.. However, the furlough shall be subject to the following terms and conditions:-

- (i) The petitioner shall furnish a telephone/mobile phone number to the Jail Superintendent on which he can be contacted, if required. After his release, he shall also furnish information of his telephone/mobile phone number to the SHO of the police station concerned.
- (ii) The petitioner shall keep away from the area around the residence of the victim and his/her family members.
- (iii) Immediately upon the expiry of period of furlough, the petitioner shall surrender himself before the Jail Superintendent.

12. The present petition is disposed of accordingly.

(JASJIT SINGH BEDI)
JUDGE

October 12, 2022

sukhpreet

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No