

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

279

**CRWP-9094-2022
Decided on : 27.09.2022**

Suresh Kumar

. . . Petitioner(s)

Versus

State of Haryana and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Lalit Kumar Narang, Advocate
for the petitioner(s).

Mr. Vikas Bhardwaj, AAG, Haryana.

SANJAY VASHISTH, J. (Oral)

On 21.09.2022, following order was passed:-

“By way of present petition, petitioner is seeking extension of parole already granted to him by respondent No. 3 – Divisional Commissioner, Hisar, vide order dated 04.08.2022 (Annexure P-1).

Learned counsel for the petitioner submits that period of parole already granted to the petitioner would expire on 22.09.2022, when the petitioner is required to surrender before jail authorities. Learned counsel refers to the medical record (Annexure P-2) of the petitioner for showing that he is presently suffering from disease of ‘Tuberculosis’ (TB) and requires some more time for improving his health.

Notice of motion.

On asking of Court, Mr. Vikas Bhardwaj, Assistant Advocate General, Haryana, who is present in the Court, accepts notice on behalf of the respondents. Complete copy of the paper book has already been supplied to him.

Adjourned to 22.09.2022.

To be shown highup in the Urgent List.

Learned State counsel would make efforts to verify the medical record annexed with the present petition, i.e. Annexure P-2, pertaining to the ailment of the petitioner.”

Again on 22.09.2022, following order was passed:-

“Learned State counsel seeks short accommodation to do the needful.

Adjourned to 27.09.2022.

In the meantime, parole already granted to the petitioner, vide order dated 04.08.2022 (Annexure P-1), passed by respondent No.3 – Division Commissioner, Hisar, is extended till the next date of hearing.”

Today, learned State counsel has filed the reply dated 26.09.2021, in Court today, which is taken on record, subject to all just exceptions. A copy thereof has already been supplied to the learned counsel for the petitioner.

Learned counsel for the petitioner refers to the medical status report dated 22.09.2022, recorded by Medical Officer of Central Jail-I, Hisar, which says as under:-

“Suresh Kumar s/o Shobha Ram came in Central Jail-I Hisar on 16.09.2019 as per records. On his OPD visits, he is treated as per his complaints, records are attached. Patient is suffering with diabetes prior to enter in jail and is on orally medicines. Patient was sent to medical guard at Civil Hospital Hisar many times. On 27.07.2022, patient has diagnosed with tuberculosis. All the medicines which are advised by concerned doctor and DTC Centre Hisar are provided and extra nutrition diet also. As per jail record, now patient is on parole leave.”

Learned counsel for the petitioner further submits that petitioner, who is aged about 52/53 years, is a law abiding person and has never

misused the concession of his release from the jail during the course of trial or even after dismissal of his appeal by the Hon'ble High Court.

While submitting so, learned counsel for the petitioner refers to the reply filed by the State, wherein, it is mentioned that in case FIR No. 307, dated 26.09.2021, under Sections 302 of IPC & 25 of the Arms Act, registered at P.S. Sadar Karnal, learned Court of Addl. Sessions Judge, Karnal, convicted the petitioner on 16.11.2002. He further submits that thereafter, during the pendency of the appeal before the High Court, petitioner was released on bail on 04.04.2007. From the reply itself, learned counsel for the petitioner further points out that after dismissal of the appeal (i.e. CRA-D-32-DB of 2003) vide order dated 23.03.2018, by the High Court, petitioner was re-admitted in jail on 21.02.2019.

From the aforementioned details, learned counsel for the petitioner argues that there is not even one instance pointed out by the State in its reply that petitioner has ever misused the concession of bail granted, during trial or even in the post conviction period. He also points out that now the petitioner was released on parole on 24.08.2022 for four weeks period, which expired on 22.09.2022. He further submits that apart from being a chronic diabetic, petitioner is also suffering with the ailment of tuberculosis, as diagnosed by the Doctor inside Jail. He further argues that there is nothing to suggest that before petitioner's re-admission to jail, after dismissal of the appeal, petitioner was ever suffering from the ailment of tuberculosis, rather, it is only after remaining inside jail throughout these years that he is diagnosed with the ailment of tuberculosis.

Besides above, learned counsel for the petitioner also relies upon the judgments of the Division Benches of this Court rendered in **CRWP-8239-2022 (O&M)**, titled as, "**Narinder Singh Vs. State of Punjab and**

others”, decided on **02.09.2022** and **CRWP No.5209-2022**, titled as, “**Harjap Singh Vs. State of Punjab and others**”, decided on **30.08.2022** and order of the Single Bench dated **10.08.2022**, passed in **CRWP-7651-2022**, titled as, “**Santokh Singh Vs. State of Punjab and another**”, wherein, parole period, which was already granted by the authorities concerned, has been extended keeping in view the critical medical conditions of the convict.

Per contra, learned State counsel argues that be that as it may, Section 11(5) of the Haryana Good Conduct Prisoner’s (Temporary Release) Act, 2002, specifically bars the extension of parole or furlough in any case.

After hearing learned counsel for the parties and perusing the relevant record with their able assistance as well as the reply submitted by the State, I am of the view that undoubtedly, provision of Section 11(5) of the Haryana Good Conduct Prisoner’s (Temporary Release) Act, 2002, bars to extend the parole or furlough. However, petitioner has approached this Court under Article 226 of the Constitution of India, to look into the matter of extension of his parole for the next four weeks.

The contentions of the learned counsel for the petitioner are based upon medical grounds, which are not controverted by the State in their reply. However, learned State counsel states that petitioner can get very well treatment inside jail also. Such contention of learned State counsel is also considered by this Court.

Be that as it may, this Court has considered in depth that the petitioner has never misused the concession of bail or parole and at present he is in need of regular medical checkup along with good nutritious diet for improvement of his health and for that purpose his request for extension of parole can be considered.

In view of the totality of circumstances, I am of the considered opinion that parole period of the petitioner deserves to be extended for a period of three weeks more. Therefore, the parole already granted to the petitioner vide order dated 05.08.2022 (Annexure P-1) by respondent No.3, be hereby deemed to have been extended uptill 18.10.2022.

Accordingly, the petitioner shall surrender on 19.10.2022 upto 05:00 p.m. to the concerned jail authorities.

Petition stands disposed of in above terms.

(SANJAY VASHISTH)
JUDGE

September 27, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*