

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

219

CRWP-3894-2022 (O&M)

Date of Decision: 03.02.2023

Sanjiv Kumar

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Vaibhav Sharma, Advocate
for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

The petitioner through instant petition under Article 226 of the Constitution of India read with Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2015 is seeking grant of parole of 04 weeks which has been rejected by impugned order dated 01.04.2022 passed by Divisional Commissioner, Karnal.

Learned counsel for the petitioner would submit that the petitioner in terms of State Policy of release of prisoners is entitled to parole. The petitioner is not involved in any other case. The total sentence awarded is life imprisonment and he has already suffered incarceration of more than 09 years.

Learned State counsel filed affidavit of Amit Kumar, Superintendent of Prison, District Prison, Karnal disclosing that the petitioner has been convicted in FIR No.260 dated 11.08.2003, under

Sections 302 read with 34 of IPC and 498-A of IPC, registered at Police
ANJU GOEL
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I attest to the accuracy and
integrity of this document

Station Civil Lines Karnal, District Karnal. The petitioner has been awarded sentence of life imprisonment and he has already suffered more than 09 years and 09 months of actual sentence.

Case of the petitioner was forwarded by Superintendent of Jail, District Karnal to District Magistrate, Karnal for his recommendation and a copy of the same was sent to Commissioner Karnal Divisional, Karnal to decide the case of the petitioner. The office of District Magistrate, Karnal sent his recommendation to the Commissioner, Karnal Division, Karnal stating that according to the report of Superintendent of Police, release of the present petitioner is likely to cause apprehension of breach of peace. Thereafter, Divisional Commissioner, Karnal Division rejected the parole case of the petitioner.

From the perusal of impugned order denying parole, it transpires that order has been passed in a mechanical manner. The order was passed by Divisional Commissioner, Karnal Division. As per State reply, the petitioner is entitled to be released on parole because he has already completed 05 years sentence as convict.

In such circumstances, I am of the considered opinion that rejection only on the ground that there is an adverse report from the concerned police authorities could not be a justified and a valid ground for declining the benefit of parole. A Division Bench of this Court in CRM-M-34013 of 2009 titled as “Varun @ Gullu vs. State of Haryana and others” decided on 26.04.2010 has laid down certain guidelines which were followed in Arun Kumar Vs. State of U.T.Chandigarh and others, 2011 (2) AICLR 361 and in Ram Chander vs. State of Punjab and others, 2017 (3) RCR (Crl.) 340.

It has been held that in the absence of any concrete material, the denial of benefit of parole is not justified and the provisions of the Act have been enacted as a reformative measure with an object to enable the prisoner to have family association or to perform certain family obligations and rituals. Therefore, declining temporary release on parole just on the ground of an adverse report would not be sustainable.

Keeping in view the above, the present petition is allowed and the impugned order dated 01.04.2022 (Annexure P-1) is quashed. The petitioner shall be released on parole for a period of of 04 weeks, on furnishing the requisite bail bonds to the satisfaction of competent authority and he shall surrender back in time with the jail authorities on the expiry of said period after his release.

(JAGMOHAN BANSAL)
JUDGE

03.02.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>