

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

CRWP-8057-2023
Decided on : 14.09.2023

Taslim

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Susheet Gautam, Advocate
for the petitioner.

Mr. Karan Jindal, AAG, Haryana.

Manjari Nehru Kaul, J.(Oral)

1. The petitioner is aggrieved by the order dated 03.02.2023 passed by respondent No.2-Commissioner, Karnal Division, District Karnal (Annexure P-1) vide which his prayer for being released on Furlough for 3 weeks has been declined.

2. Learned counsel for the petitioner submits that the petitioner was sentenced and convicted for life imprisonment vide judgment dated 06.07.2017 passed by Addl. Sessions Judge, Karnal under Sections 436, 342, 307, 302, 34 IPC. The petitioner has already undergone 10 years of imprisonment and it is a matter of record that during his stay in jail, not even once he has misconducted himself. Learned counsel further submits that since the petitioner has his wife, mother, two sons and two daughters in his family, who are based in Ghaziabad, U.P., he moved an application for being released on Furlough for a period of three weeks so

that he could meet them. Learned counsel, while drawing the attention of this Court to Annexure P-1 has submitted that only on the basis of a vague apprehension by District Magistrate, Ghaziabad, that there could be a possibility of the petitioner absconding during Furlough, the Commissioner, Karnal Division, Karnal had declined his prayer for being given the incentive of furlough. Learned counsel has submitted that the Hon'ble Supreme Court in ***Asfaq vs. State of Rajasthan and others***, **2017 AIR (SC) 4986** has held as under:

“15) The provisions of parole and furlough, thus, provide for a humanistic approach towards those lodged in jails. Main purpose of such provisions is to afford to them an opportunity to solve their personal and family problems and to enable them to maintain their links with society. Even citizens of this country have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, without employment prospects, without a fundamental knowledge of the communities to which they will return, and without resources, stand a significantly higher chance of failure. When offenders revert to criminal activity upon release, they frequently do so because they lack hope of merging into society as accepted citizens. Furloughs or parole can help prepare offenders for success.”

3. Learned counsel has submitted that merely on the basis of some vague apprehension, without there being any cogent reason given the petitioner could not be deprived from meeting his family, more so,

since he had completed three-fourth of the sentence awarded to him. It has been further submitted that the petitioner was ready to furnish surety bonds and bail bonds to the satisfaction of the jail authorities and give an undertaking that he would not misuse the concession of furlough and would return to the jail within time. Learned counsel has also drawn the attention of this Court to Annexure P-2, which is a report of the Gram Panchayat, Village Nidori Basti, Block Rajapur, Ghaziabad wherein also no objection has been raised to the petitioner being released on furlough.

4. Learned State counsel, on the other hand, has not controverted that the petitioner's conduct throughout inside the jail has been good. It has also not been disputed that the petitioner has not been involved in any other criminal case nor is there any criminal case pending against him. Still further, it has also not been disputed that as per the report of Gram Panchayat, Village Nidori Basi, Block Rajapur, Ghaziabad (Annexure P-2) the gram panchayat has not objected to the release of the petitioner on furlough. However, it has been submitted that the prayer of the petitioner for being given furlough had been declined on account of the report of District Magistrate Ghaziabad (UP) (Annexure P-1) wherein an apprehension had been raised that he could abscond during furlough.

5. Heard learned counsel and perused the relevant material on record.

6. The petitioner ever since his conviction in FIR No.43 dated 17.01.2013 under Sections 436, 342, 307, 302 and 34 IPC on

06.07.2017, as not disputed by the State counsel also, has never availed parole or Furlough. Concededly, the conduct of the petitioner throughout his stay inside the jail has been good.

7. It needs to be reiterated that a prisoner does not stop being a human, merely because he stands convicted for an offence, hence, he cannot be deprived of the company of his loved ones. Furlough is earned by a prisoner for his good conduct inside the jail. Once it is conceded by the State that his conduct inside the jail has been good, the petitioner cannot be denied this concession/incentive in a routine and mechanical manner. The purpose behind grant of furlough is to break the monotony of imprisonment and to enable the convict to maintain continuity with family life and integration with society as has also been held by the Hon'ble Supreme Court in ***State of Gujarat and another vs. Narayan @ Narayan Sai @ Mota Bhagwan Asaram @ Asumal Harpalani, 2021 SCC Online SC 949***. Undoubtedly, furlough can be declined to certain categories of prisoners but it has not been disputed by the learned State counsel that the case of the petitioner does not fall within the exceptions carved out in Haryana Good Conduct Prisoners (Temporary Release) Act, 2022.

8. Accordingly, the instant petition is allowed and the impugned order dated 03.02.2023 is set aside. The petitioner is granted Furlough for a period of 03 weeks from the date of release to the satisfaction of the District Magistrate concerned, who would impose such conditions as may be required to secure the presence of the petitioner in the jail after the

Furlough period is over. It is further directed that the petitioner shall get his presence marked in the nearest police station of his residence on every Monday at 10.00 am during the period of his furlough.

(MANJARI NEHRU KAUL)
JUDGE

14.09.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No