

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

CRWP No.9545 of 2022

Date of Decision: 31.01.2023

SURAJ @ MULLA

.....Petitioner

V/s.

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: **HON'BLE MR. JUSTICE M.S. RAMACHANDRA RAO.**
 HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

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

Mr. Arun Beniwal, DAG, Haryana.

M.S. RAMACHANDRA RAO, J. (Oral)

In this Criminal Writ Petition, the petitioner sought issuance of a Writ in the nature of *certiorari* for quashing of the order dt.07.09.2022 (Annexure P-1) passed by the Divisional Commissioner, Division Ambala, District Ambala (Respondent No.2) declining grant of parole to him.

The petitioner was involved in a case FIR No.404 dt.13.10.2016 registered under Section 365, 302, 201, 404, 212 read with Section 34 of the India Penal Code with Police Station Kundli, Sonapat, and he was convicted on 21.12.2019 by the Additional Sessions Judge, Sonapat in CIS No. SC-71 dt.23.02.2017 (i) under Section 302 IPC to undergo Rigorous imprisonment for life with a fine of ₹1,00,000/- (ii) under Section 201 IPC to undergo Rigorous imprisonment for three years with a fine of ₹30,000/-.

The petitioner had earlier applied for parole which was granted to him on 15.04.2021 by the Divisional Commissioner, Division Ambala, Ambala, subject to his furnishing two sureties of ₹1,00,000/- each. However, the petitioner could not furnish sureties of such amount, and he could not avail the benefit at that point of time.

When the petitioner made a request again for his release on parole through the Superintendent, District Jail, Sonapat vide letter No.3369 dt.30.05.2022, the Divisional Commissioner rejected the said request on the ground that there is an apprehension/probability of threat to the security and peace of the State since the petitioner can flout the Rules of release in the event of his parole being granting by absconding. It is also stated that the petitioner had some relatives in Bengal and could abscond there, and undertake some other crime which would deteriorate the atmosphere of the society/village, and therefore, it is not possible to recommend his release on parole.

It is contended by the counsel for the petitioner that the petitioner fulfills all conditions prescribed for release on parole under the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022, and he has been arbitrarily denied parole which would have enabled him to complete certain tasks for himself and his family members as his mother is aged lady and his two siblings are teenagers. Reliance is also placed on certain decisions of this Court some of which are as under:-

1. Didar Singh Vs. State of Haryana and others¹ ;
2. Mehboob Vs. State of Punjab through Director General of Prisons² ;

¹ CRM-M-7536-2007 Order dt. 06.02.2017

² 2002(4) RCR (CrL.) 463 (P&H)

3. Kehar Singh Vs. State of Haryana³ and ;
4. Tarjinder Singh Vs. State of Haryana⁴.

In the reply filed by the State, it had reiterated the grounds mentioned in the impugned order passed by the Divisional Commissioner, Ambala Division, Ambala rejecting the parole of the petitioner.

It is not the case of the respondents that the petitioner was a habitual criminal, and has been involved in commission of other offences in order to contend that his possible release would be a threat to security and peace of the State or would cause disruption of atmosphere in the society or village.

It is not in dispute that the petitioner's father is not there and his aged mother and two teenage siblings are staying with her, and are needed to be taken care of. Merely because petitioner has relatives in Bengal, no presumption exists that he is bound to abscond and go there.

While it is true that release on parole may not be a vested right, denial of parole cannot be made arbitrarily by the respondents.

If really the petitioner's release would have been a threat to peace, the State would not have previously granted parole to him for three weeks on 15.04.2021.

Therefore, the Writ Petition is allowed; order dt.07.09.2022 (Annexure P-1) passed by the Divisional Commissioner, Ambala Division, Ambala (Respondent No.2) is set aside; respondents are directed to release the petitioner on parole for three weeks from the date of his release subject

³ 1996(1) RCR 580 (P&H)

⁴ 1992 (3) RCR 562 (P&H)

to his furnishing two sureties of ₹10,000/- each to the satisfaction of the District Magistrate, Sonapat.

The petitioner is directed to surrender himself before the District Jail, Sonapat after three weeks from the date of his release without fail. He shall also report to the Police Station Kundli, Sonapat twice a week between 11 A.M. to 5 P.M. during the period of parole.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

January 31, 2023
Ess Kay

<i>Whether speaking / reasoned</i>	:	<i>Yes /No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>