

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

CRWP No.10945 of 2022 (O&M)
Date of decision : February 22, 2023

Mukesh Singh alias Mukesh Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr. Vipin Mahajan, Advocate
for petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

HARINDER SINGH SIDHU, J.

Mukesh Singh alias Mukesh Kumar-petitioner, who is undergoing rigorous imprisonment for life in case FIR No.46 dated 27.06.2014 under Sections 302, 201, 364, 34 IPC, Police Station Puranashala, District Gurdaspur, has filed the instant petition praying for his release on furlough for the purpose of meeting his family members. He was convicted vide judgment and order dated 31.07.2017.

Respondent No.3 – District Magistrate, Charkhi Dadri, Haryana vide order dated 11.10.2022 (Annexure P-7) has rejected the request of the petitioner while observing as follows:

“... The S.P.Charkhi Dadri vide his letter No.88 dated 02.09.2022 has written that during enquiry it has been found that name of the convict, address and caste has been found to be correct. The convict is lodged in Central Jail Gurdaspur. There are four members in the house of convict Mukesh Kumar alias Mukesh Singh. The age of Suraj Bhan father of the convict is 75 years, mother Bhanwar kaur is 74 years, daughter

Ekta is 18 years and son Aditya is 15 years. Both children are studying. The convict Mukesh Kumar wants to meet his family members and for this purpose he has requested for three weeks Furlough. The report of convict Mukesh Kumar alias Mukesh Singh as under:-

xxx xxx xxx

Sr.No.4: The parents and children of convict are living in village. The parents are aged and they also remain in house. Both children are studying.

Sr.No.5: The reason for Furlough given by the convict is not proper. The family members of convict are capable to meet him.

Sr.No.6: There is threat of breach of peace if convict is released on bail.

xxx xxx xxx

The convict is confined in Central Jail Gurdaspur and is undergoing life imprisonment. The local police has raised apprehension that convict Mukesh Kumar alias Mukesh Singh, if released on parole/furlough and abscond or commit serious offence.”

The respondents have filed reply in the form of affidavit of the District Magistrate, Charkhi Dadri, in which the report of the Superintendent of Police which has been referred to in the impugned order has been annexed. It is further stated that the Tehsildar, Charkhi Dadri vide letter dated 08.09.2022 has reported that there are total 5 members in the family including the convict. The parents of the petitioner were found to be aged about 77 years and 65 years. All the family members of the petitioner live in the village and are agriculturist. The Tehsildar further reported that the reason given by the petitioner for his release is justified and that there is no danger for maintaining the public order or security of State, if the petitioner is released on furlough/parole.

Mr. Mahajan Ld. counsel for the petitioner has contended that the furlough has been wrongly denied to the petitioner. Referring to the certificate (Annexure P-3) issued by Superintendent, Central Jail, Gurdaspur, it is contended that the petitioner has availed parole five times since April, 2019. He states that the petitioner has always surrendered on time after the parole period. There is no complaint about his conduct within the jail premises or outside while on parole. Mr. Mahajan has also drawn attention to the Character Certificate issued by the Superintendent Central Jail, Gurdaspur wherein it is certified that the petitioner had availed his last parole/furlough from 02.04.2022 to 29.05.2022 peacefully and surrendered into the jail on the due date. No bad report has been received from the District Authorities against him.

He argued that there is no substantial reason in the impugned order, which would justify rejection of his case for release on furlough. It is not the case of the respondents that the petitioner does not fulfil the conditions prescribed in Section 4 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short “the Act”) for release on furlough.

He argued that in the facts and circumstances of the case, it is incomprehensible as to why the District Magistrate, has not recommended the release of the prisoner on furlough.

We have heard Ld. counsel for the parties and perused the records.

Section 6 of the Act specifically provides that notwithstanding anything contained in Sections 3 and 4 of the Act, no convicted prisoner shall be entitled to be released under this Act if, on the report of the District Magistrate, the State Government or an officer authorised by it in this behalf

is satisfied that his release is likely to endanger the security of the State or the maintenance of public order.

In the impugned order passed by the District Magistrate, Charkhi Dadri or the report of the Superintendent of Police there are no justifiable reasons given or material indicated to record a finding that the release of the petitioner is likely to endanger the security of the State or the maintenance of public order. Nor is there any report that the petitioner had involved himself in any illegal activity during his release on parole on earlier occasions. Hence, the impugned order cannot sustain.

As per Section 4 of the Act a convicted prisoner may be released on furlough for three weeks during the first year of his release and two weeks during each successive year thereafter. Nothing has been pleaded by the petitioner to indicate that this is the first time that he would avail furlough. In the absence thereof in terms of Section 4 of the Act he would be entitled to be released on furlough for two weeks.

Accordingly, the petition is allowed. The impugned order dated 11.10.2022 (Annexure P-7) is quashed. The respondents are directed to release the petitioner on furlough for a period of **two weeks** subject to his furnishing bond/ surety to the satisfaction of the District Magistrate/ Competent Authority. The petitioner shall surrender before the Jail authorities on the expiry of the furlough period.

(LALIT BATRA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

February 22, 2023

gian

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No