

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

CRWP No.11072 of 2022 (O&M)

Date of decision : March 02, 2023

Sunil Dutt

... Petitioner

Versus

State of Haryana and others

... Respondents

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

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

Mr. Anmol Malik, DAG Haryana.

HARINDER SINGH SIDHU, J.

Sunil Dutt - petitioner, who is undergoing rigorous imprisonment for life in case FIR No.373 dated 20.12.2015 under Sections 302, 201, 364, 120 B IPC, Police Station Civil Lines, District Bhiwani has filed the instant petition assailing the order dated 05.10.2022 endorsed on 06.10.2022 (Annexure P-1) passed by Respondent No.2 – Commissioner Rohtak, Division Rohtak, District Rohtak, whereby, his request for grant of parole has been declined.

He has prayed that he be directed to be released on parole for a period of 10 weeks for the purpose of meeting his family members.

Respondent No.2 while rejecting the case of the petitioner observed as under:

“District Magistrate vide letter No.1359/P.B. dated 24.9.2022

has on the basis of the report of Superintendent of Police, Bhiwani not recommended the release of the prisoner on parole. According to the report of Superintendent of Police, Bhiwani, the family of the prisoner consists of his three brothers and still alive mother father. The prisoner can become absentee on the event of release on parole.”

Mr.Randeep S. Dhull, Ld. counsel for the petitioner has contended that the parole case of the petitioner has been unjustifiably denied only on the basis of the report of the Superintendent of Police that in case the petitioner is released on parole the possibility that he will not surrender back cannot be ruled out. There is no material to justify this apprehension. His case could not be declined only on the basis of such unfounded apprehension.

Reply by way of an affidavit of Sewa Singh, Superintendent of Jail, District Jail, Bhiwani has been filed, wherein, it is stated that the District Magistrate, Bhiwani conducted enquiry through Superintendent of Police, Bhiwani who has reported that he has conducted enquiry through SHO, Police Station Sadar Bhiwani. As per report, it is found that prisoner/petitioner are three brothers. The petitioner is the eldest one out of three brothers. The parents of the petitioner are alive. There is no land in the name of the petitioner in the revenue records. The land is in the name of his father. It is stated that the local police has expressed that if the petitioner is released on parole, the possibility of his non-appearance cannot be ruled out. However, no material has been laid to justify such an apprehension.

Section 8 of the Haryana Good Conduct (Temporary Release) Act, 2022 (for short hereinafter referred to as 'the Act') specifically provides

that no convicted prisoner shall be entitled to be released under this Act if, on the report of the District Magistrate or the Deputy Commissioner of Police or the Superintendent of Police or otherwise, the State Government or the competent authority is satisfied that his release is likely to endanger the security of the State or the maintenance of public order or cause reasonable apprehension of breach of peace.

In the report of the Superintendent of Police or the impugned order passed by the Divisional Commissioner, Rohtak, no such satisfaction that the release of the petitioner is likely to endanger the security of the State or the maintenance of public order or cause reasonable apprehension of breach of peace, is recorded. The only ground is that if the petitioner is released on parole there is an apprehension that he may not surrender back.

The ground that there is a possibility of the petitioner absconding while released on parole, appears to be a mere apprehension in the mind of the Authority as no material has been referred to justify such apprehension. Temporary Release Acts envisage temporary release of convicts. Mere fact that a person is convicted for an offence does not mean that he will abscond if he is released on parole. As held by a Division Bench of this Court in **Baljit Singh Vs. State of Punjab 2017(2) Law Herald 1796** if the State has any apprehension that the convict will jump parole it can always impose adequate conditions including asking for heavy surety.

Hence, the impugned order cannot sustain.

As per Section 3(2) of the Act a convicted prisoner may be released on regular parole for ten weeks in a calender year cumulatively.

The parole may be availed of in two parts.

Accordingly, the petition is allowed. The impugned order dated 05.10.2022 endorsed on 06.10.2022 (Annexure P-2) is quashed. The respondents are directed to release the petitioner on parole for a period of **five 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 parole period.

(LALIT BATRA) (HARINDER SINGH SIDHU)
JUDGE JUDGE

March 02, 2023

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No