IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Writ Petition No. 12116 of 2022(O&M)

Date of Decision: April 13 , 2023.

Rakesh Chehal ..... PETITIONER (s)

Versus

State of Haryana and others ..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MRS.JUSTICE RITU TAGORE

Present: Mr. Raman Chawla, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl.AG, Haryana.

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1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

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LISA GILL, J.

Prayer in this petition is for quashing of order dated 22.09.2022 passed by respondent No.2-Divisional Commissioner, Karnal Division, Karnal, whereby his request for grant of parole for ten weeks has been rejected.

Petitioner has been convicted and sentenced to undergo life imprisonment in FIR No.56 dated 21.02.2014 under Sections 302/120B IPC and Section 25 of the Arms Act. Appeal against the said conviction and sentence is pending before this High Court. Petitioner has applied for ten weeks parole to meet his family members and look after household affairs. Same has been

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rejected by respondent No.2 vide impugned order dated 22.09.2022. Aggrieved therefrom, present petition has been filed.

Learned counsel for the petitioner submits that impugned order dated 22.09.2022 is clearly unsustainable as it has been passed on consideration alien to the specific provisions of law. Petitioner, it is submitted, had been afforded the concession of furlough vide order dated 29.07.2022 in CRWP No.1949 of 2022, Annexure P5 and he never misused the concession afforded to him. It is further submitted that case of the petitioner for grant of parole was duly recommended by the Superintendent, District Jail, Karnal, however, the same has been rejected by the authorities in an arbitrary manner whereas his case for parole is fully covered under the applicable provisions.

Learned counsel for the State, however, opposed the prayer of the petitioner on the ground he is involved in a number of other criminal cases of similar nature and is likely to commit some offence again, if released on parole.

Heard learned counsel for the parties.

Perusal of order dated 22.09.2022 (Annexure P1) reveals that petitioner's application for parole has been rejected on the ground that petitioner may abscond or commit other offence, after his release on parole. It is relevant to refer to Section 6 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for short, '1988 Act'), which reads as under:-

> "**6. Prisoners not entitled to be released in certain cases. -** (1) Notwithstanding anything contained in sections 3 and 4, no prisoner shall be entitled to be released under this Act if, on the report of the District Magistrate, the State Government or an officer authorized by it in this behalf is satisfied that his release is likely to endanger the security of the

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> State or the maintenance of public order or cause reasonable apprehension of breach of peace.
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> (2) The District Magistrate, the State Government or the officer authorized to release the prisoner as provided in sections 3 and 4 of the Act shall take report from the Police within a specified time frame.
>
> (3) In case of non-recommendation for release by the Police, the release granting authority shall pass a speaking order, if he disagrees with the report submitted to him."

It has been held in a plethora of cases that temporary release of a prisoner on parole or furlough can be denied only if the release is likely to endanger security of State or maintenance of public order. For arriving at such satisfaction that danger to security of State or maintenance of public order is indeed present, there has to be sufficient material before the District Magistrate for consideration. In the present case, there are general allegations that petitioner may abscond or involve in other criminal case, if released on parole. However, no material has been adverted to in the reply or by learned State counsel during the course of arguments justifying such apprehension. Insofar as other cases against the petitioner are concerned, it is not denied that in almost all of them, petitioner has either been acquitted or has undergone the sentence. Furthermore, no provision of 1988 Act has been cited which can be a bar/impediment for release of the petitioner on parole.

In our considered opinion, reasons for declining parole to the petitioner in the facts and circumstances of the case are unsustainable. The present case calls for reconsideration of the matter by the competent authority in accordance with law and parameters as laid down for grant of parole.

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Accordingly, order dated 22.09.2022 (Annexure P1) is set aside with a direction to the competent authority to reconsider the matter and decide the same expeditiously and preferably within a period of four weeks from receipt of certified copy of this order, by passing a speaking order, in accordance with law.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

April 13 , 2023.
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

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