

2024:PHHC:118554-DB



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

CRWP-2329-2024
Date of Order: 03.09.2024

MehtabPetitioner

Versus

State of Haryana and othersRespondents

**CORAM: HON’BLE MR. JUSTICE SUDHIR SINGH
HON’BLE MR. JUSTICE JASJIT SINGH BEDI**

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

Mr. Vikrant Pamboo, DAG, Haryana.

SUDHIR SINGH,J. (ORAL)

By way of the present Criminal Writ Petition, the petitioner seeks issuance of a writ in the nature of Certiorari for quashing the order dated 22.02.2024 (Annexure P-1) passed by respondent No.2, whereby, release of the petitioner, on parole, for a period of 10 weeks, to enable him to meet his family members, has been declined.

2. The petitioner is a convict and is undergoing life imprisonment in FIR No.333 dated 29.07.2019, under Sections 302 read with Section 34 IPC and Section 25 of the Arms Act, 1959, registered at Police Station, Sadar, Sonipat,

District Sonipat. Presently, the petitioner is confined in District Jail, Karnal.

3. Notice of motion was issued in this case on 15.03.2024. Reply on behalf of respondent Nos. 1 to 4, has already been filed on 03.05.2024. In para 5 of the reply, it is stated as under:-

“5. That, as per Endst No.2358/R dated 05.10.2023 of the District Magistrate, Sonipat, in which it has stated that the reason for parole release was investigated by the Commissioner of Police, Sonipat. On the basis of which, the Deputy Commissioner of Police, Headquarters Sonipat has been informed vide his office letter No.310/P.R. dated 22.09.2023 that prisoner Mahtab son of Satbir is undergoing sentence in the above case FIR No.333 dated 29.07.2019 under Section 302/34 and 25/54/59 Arms Act, Police Station Sadar Sonipat. In the above case, Sandeep son of Ram Singh, resident of village Baiyyapur Lahrada, District Sonipat, who is lodged in jail, is a co-accused of the prisoner. Apart from the above said case, there is no other case registered against the prisoner. The prisoner has his mother Bimla Devi, aged 52 years, the prisoner's wife Reena Devi, aged 35 years, the prisoner's son Akash, aged 12 years and the prisoner's daughter Anjali, aged 14 years. There is no threat to the security of the state due to the release of the prisoner, but there is a possibility of danger of disturbing public peace because the prisoner may violate the rules of release and become absconding (absent) after coming on parole and may commit other crimes. Due to which the environment of the society/village can get spoiled and the public peace of the society/village can be disturbed. Therefore, he has not recommended granting parole release to the prisoner.

Hence, the temporary release ten weeks regular parole case of the convict has not been recommended by the District Magistrate, Sonipat vide their Endst

No.2358/R dated 05.10.2023 based on the review of the crime, the balance of peace and order in the society and the circumstances of the prisoner.

It is further submitted that as per Endst No.parole/298-99 dated 23.02.2024 of the Commissioner, Karnal Division, Karnal, after receiving above mentioned report by the Commissioner, Karnal Division, Karnal, a letter No.Parole/2125 dated 08.11.2023 was written by their office to the District Magistrate, Sonipat to sent for reconsider in view of the above and send your clear report.

After that re-clarification report of the parole release of the prisoner issued by District Magistrate Sonipat to Commissioner, Karnal Division Karnal through the letter No.3400 R dated 16.01.2024 and it was informed that *the re-clarification report was once again availed in the present parole case through the Deputy Commissioner of Police Head Office Sonipat, who vide report No.04 PR dated 05.01.2024 stated that there is no apprehension to the security of the state on release of prisoner on parole furlough, however, there is possibility of disruption of public peace. This is because the prisoner is having prior enmity in the second party victim party in the above mentioned case and that there can be some unforeseen incident that could occur in the event prisoner is released on parole. The prisoner can disobey the conditions of parole on his release and can commit some other crime.*

Therefore, the temporary release ten weeks regular parole case of the convict has not been again recommended by the District Magistrate, Sonipat vide their Endst No.3400/R dated 16.01.2024 based on the review of the crime, the balance of peace and order in the society and the circumstances of the prisoner.”

4. Today on the resumed hearing, learned State counsel has argued that in case, the petitioner is released on parole, there is possibility of disruption of public peace

because he is having previous enmity with other side i.e. victim party.

5. Learned counsel for the petitioner submits that vide impugned order dated 22.02.2024 (Annexure P-1), parole of the petitioner for 10 weeks was rejected on apprehension of disruption of public peace. He further submits that the petitioner seeks his release on parole in order to meet his family and to restore the social ties. The petitioner undertakes and assures that during the period of parole, he shall not indulge into any action, which may disturb the peace of the co-villagers and the public at large and that he will also ensure that in no way, the family of the victim is put to any threat or pressure.

6. On the other hand, the learned State counsel opposes the prayer of the petitioner for release on parole.

7. We have heard learned counsel for the petitioner as well as learned State counsel and have also perused the case file.

8. From the perusal of impugned order, it is borne out that the sole ground taken for rejection of parole to the petitioner is that his release might cause disruption of public peace and he can commit some other crime, as he is having enmity with some persons. However, solely on this ground prayer of the petitioner cannot be rejected, as he is seeking his release on parole in order to meet his family i.e.

mother, wife and two children. Moreover, in the reply filed on behalf of the respondents, no specific incident has been indicated, which could lead to a conclusion that there will be disruption of public peace, in case the petitioner is released on parole.

9. In view of the above, we set aside the impugned order dated 22.02.2024 (Annexure P-1) and grant 04 weeks' parole to the petitioner commencing from the date of release, subject to his furnishing fresh bonds to the satisfaction of the competent authority/Chief Judicial Magistrate/Duty Magistrate concerned. The period of 04 weeks shall be counted from the date of his release. The releasing Court/Duty Magistrate shall also notify the dates of release and surrender of the petitioner. The petitioner shall surrender before the jail authorities on the date and time to be notified by the releasing Court/Duty Magistrate. After surrender, the petitioner shall furnish a surrender certificate.

10. With the aforesaid observations/directions, the instant petition is disposed of.

11. All the pending application(s), if any, shall also stand disposed of.

(SUDHIR SINGH)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

03.09.2024
Ajay Prasher

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