

2024:PHHC:062696



CRWP-8149-2023

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRWP-8149-2023

Date of Decision : May 06, 2024

VIKAS @ BILLU

.....Petitioner

**VERSUS**

STATE OF HARYANA AND OTHERS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI**

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

Mr. Bhupender Singh, DAG, Haryana.

**KULDEEP TIWARI, J.**

1. Through the instant criminal writ petition, as filed under Article 226/227 of the Constitution of India, read with Section 4 of The Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 (hereinafter referred to as the '**Act of 2022**'), the petitioner seeks quashing of the impugned order dated 17.7.2023 (Annexure P-1), whereby, the respondent No.2, has declined to grant of furlough to the petitioner. In addition, the petitioner also seeks issuance of directions upon the respondent(s) concerned to temporarily release him on furlough for a period of 4 weeks.

2. The petitioner has been convicted by the learned trial Court concerned in case FIR No. 224 dated 17.10.2011, under Sections 148,

**CRWP-8149-2023****-2-**

149, 302, 307, 216, 120-B IPC and under Section 25 of the Arms Act, registered at P.S. KUK, District Kurukshetra. Consequent to the drawing of the verdict of conviction, the petitioner has been sentenced to undergo rigorous imprisonment for life and aggrieved against that judgment, the petitioner filed an appeal bearing CRA-D-285-DB-2015 titled “**Rajesh @ Raja and others Vs. State of Haryana**” before this Court, which was dismissed vide order dated 29.11.2019.

**REASONS RECORDED IN THE IMPUGNED ORDER  
(ANNEXURE P-1) FOR DECLINING PAROLE**

3. A bare glance at the impugned order dated 17.07.2023 (Annexure P-1), makes revelations that the decision to decline furlough to the petitioner was anchored upon the petitioner being involved in 21 cases. What further weighed with the respondent No.2, i.e. the author of Annexure P-1, to draw the impugned declining order, was that, primarily the District Magistrate, Jind has not recommended to release the petitioner on furlough.

4. The report of the District Magistrate, Jind was also perused by this Court. As per the report, it transpired that the learned Magistrate concerned has considered that the petitioner is involved in total 21 other criminal cases, which included serious offences like loot, dacoity and murder. It is further recorded that the petitioner was declared as a proclaimed offender, and thereupon, FIR Nos. 251/2012 and 255/2012, under Section 174-A IPC, were registered at Police Station KUK, District



CRWP-8149-2023

-3-

Kurukshetra, therefore, the petitioner falls within the ambit of hardcore prisoner and is not found to be entitled for the relief of furlough.

### ANALYSIS

5. Before embarking upon the process of evaluating the validity of the impugned order (Annexure P-1) and penning down any opinion upon the instant petition, it is deemed imperative to capture an overview of some significant and relevant legal provisions and propositions.

6. The definition, as assigned to “hardcore convicted prisoner” in Section 2(1)(g)(iv) of the Act of 2022, is extracted hereinafter:-

*“2.(1)(g)(iv) **“hardcore convicted prisoner” means any prisoner who has been found in possession or detected of using wireless communication device or its components or any unauthorised electronic device inside the jail premises;”***

7. Section 6(3) of the Act of 2022, which became banked upon by the respondent No.4 while drawing the impugned order (Annexure P-1), is also extracted hereinafter:-

*6(3). Notwithstanding anything contained in sub-section (1), a hardcore convicted prisoner, who has not been awarded death penalty or life imprisonment till natural life and has completed five years of his sentence (including maximum two years under trial period), without committing any major jail offence or any cognizable offence during the last five years, shall be entitled for emergency parole or regular parole or furlough at par with convicted prisoners. Such period of*



CRWP-8149-2023

-4-

*five years shall be counted from the date of his latest offence or act which falls under the category of hardcore convicted prisoner:*

*Provided that a hardcore convicted prisoner who has been sentenced for imprisonment till natural life shall be eligible for emergency parole or regular parole at par with convicted prisoners only after completion of seven years of imprisonment after conviction:*

*Provided further that if the hardcore convicted prisoner so released temporarily violates any condition of parole or furlough or commits any cognizable offence, he shall be debarred from such release for next three years.”*

8. The instant petition has been opposed by the State by filing reply on the ground that there is no absolute legal right to claim furlough and further makes much stress upon the criminal antecedents of the petitioner to submit that the petitioner cannot be released on furlough.

9. This Court has considered the submissions made by both the learned counsel for the parties and is of the view that the impugned order deserves to be interfered.

10. So far as the antecedents of the petitioner are concerned, as per the reply submitted to the instant petition, the petitioner is involved in 21 criminal cases and out of total 21 cases, the petitioner has earned acquittal in 14 cases and in 3 cases, he has been convicted and sentenced to the period already undergone by him and in 2 cases, he is on bail and in 2 cases, he has been convicted and is serving the sentence. The



CRWP-8149-2023

-5-

impugned order is based merely upon the antecedents of the present petitioner, however, there is no such substance on record to conclude that the petitioner may involve in any other criminal case. Further, the observations that his release may disturb the peace of society is also without any substance on record. Undoubtedly the furlough is a concession granted to the petitioner and cannot be claim as a right, but such benefit can be refused in case the refusal is based on intelligent differentia and has nexus to the object of Rules. In this regard, this Court can place reliance upon the judgment passed by a Co-ordinate Bench of this Court in **CRWP No.10236 of 2018, “Virender @ Dhillu Vs. State of Haryana and others”** decided on 26.4.2018.

11. Furthermore, in case titled as **“Rakesh Chehal Versus State of Haryana and others”, CRWP-1949-2022**, Decided on: 29.07.2022, a Division Bench of this Court has made the hereinafter extracted observations:-

*“In the reply there is no rebuttal to such assertion. Petitioner was seeking furlough to meet his family members. In the impugned order it has been observed that the prisoner's family can meet him in jail as per rules. We do not approve of such reasoning. One of the clear objectives of releasing a prisoner on furlough is to enable the inmate to maintain continuity with his family life and to deal with the familial and social matters. Such objective is part of the reformatory process. A convict being released on furlough to have interaction and*



CRWP-8149-2023

-6-

*company of his family members in the confines of his house, cannot be equated to the family members meeting up with the inmate/convict within the jail premises.”*

12. In view of the above, and considering the fact that the last conviction which the petitioner suffered was in February 2012, whereby, he was sentenced to undergo the period already undergone by him and so far his being involved in case under Section 174-A IPC, is concerned, he was convicted in those cases way back in the year 2013 and sentenced to the period already undergone by him. Therefore, this Court can safely observe that the impugned order deserves to be interfered, as all these aspects have not been considered. There is no substance on record to substantiate that the release of the petitioner could cause threat to the peace of the society.

13. In view of what has been discussed hereinabove, this Court deems it fit and appropriate not to curtail the liberty of the petitioner.

14. In sequel, after **allowing the present petition**, the petitioner is ordered to be released from the prison concerned, on 4 weeks' parole, by the Superintendent of the prison concerned, from the period commencing from the morning of 10.5.2024 to the evening of 10.9.2024. On expiry of the above term of parole, the petitioner shall forthwith re-step into the prison concerned and if he does not do so, thereupon, the SHO of the jurisdictional police station concerned shall forthwith arrest the petitioner and thereafter, shall produce him before the learned Judicial

2024:PHHC:062696



**CRWP-8149-2023**

**-7-**

Magistrate concerned.

15. Personal surety bonds comprised in a sum of Rs.50,000/- are ordered to be furnished by the petitioner, before the Superintendent of the prison concerned.

16. The petition is **allowed** in the above terms.

**(KULDEEP TIWARI)**  
**JUDGE**

**May 06, 2024**  
ajay-1

|                            |   |        |
|----------------------------|---|--------|
| Whether speaking/reasoned. | : | Yes/No |
| Whether Reportable.        | : | Yes/No |