



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

CRWP-9168-2024

Date of Decision:07.11.2024

Sunil @Shunty

...Petitioner

Vs.

State of Haryana and others

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Hoshiar Singh Jaswal, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, Deputy Advocate General, Haryana.

N.S.Shekhawat J.

1. The petitioner had filed the present petition under Article 226 of the Constitution of India with a prayer to issue appropriate directions to the respondents to grant regular parole to the petitioner for a period of 10 weeks as per the provisions of the Haryana Good Conduct Prisoner's (Temporary Release), Act,2022 (hereinafter referred to as the "Act").

2. Learned counsel for the petitioner contends that the petitioner was involved in a case FIR No.89 dated 09.03.2008 for commission of the offence punishable under Sections 364-A, 377, 201, 34, 420, 411, 468 and 471 of IPC, registered at Police Station City Thanesar, District Kurukshetra. He further contends that the petitioner was convicted for the offences punishable under Sections 364-A/149 of IPC and was sentenced to undergo life imprisonment. Even, the appeal filed by the petitioner i.e. CRA-532-DB was disposed of by this Court on 02.12.2017 and now, no appeal or revision is pending before any Court.



3. Learned counsel further submits that the petitioner had earlier filed Criminal Writ Petition No.7999-2023 before this Court and vide order dated 06.02.2024 (Annexure P-1), the petitioner was granted the parole for a period of four weeks and the petitioner had not misused the said concession in any manner. The petitioner again approached the Superintendent District Jail, Yamuna Nagar-respondent No.3 by filing up the proforma and the case of the petitioner was initiated by the respondents for conducting verification and passing the final order. However, till date, no decision was taken by respondents No.1 and 2, despite of lapse of a period of more than 03 months. Learned counsel further referred to Section 12 of the “Act”, which provides the procedure for parole or furlough. It clearly lays down that the process of deciding the application for a regular parole or furlough shall be completed by the different authorities expeditiously. Even, the District Magistrate was bound to submit a report within a period of two weeks. It has been provided that in case, recommendation or report is not received within the stipulated time period, the competent authority may presume that there was nothing adverse against the prisoner or may decide the application accordingly. Even the competent authority was supposed to decide the matter within a period of two weeks. However, now a period of more than 03 months has elapsed and no action had been taken by the District Magistrate or the competent authority. Learned counsel further submitted that even on earlier occasions also, he was granted the parole and he had never misused the concession in any manner.

4. A short reply by way of an affidavit of Deputy Superintendent, District Jail, Yamuna Nagar has been filed on behalf of respondents No.1 and 3 the same is taken on record.



5. As per the said report, the petitioner had availed parole on different occasions and he had surrendered at jail on time after availing parole/furlough. Even, this year he was granted parole with effect from 08.02.2024 to 07.03.2024 i.e for four weeks and had surrendered on time. Apart from that, the petitioner had already undergone 15 years, 04 months and 19 days of actual sentence and 19 years, 06 months and 18 days total sentence including remissions. Consequently, even in view of the provisions contained in Section 3(1) (2) of the “Act”, he was eligible for consideration of his case for grant of parole. Even, the case of the petitioner was initiated by respondent No.3 i.e. Superintendent, District Jail, Yamuna Nagar and was submitted to the office of District Magistrate, Saharanpur (U.P)-respondent No.2 for further necessary action on 12.06.2024. Several reminders were also sent to respondent No.2 to take action, but the matter is still pending.

6. I have heard the rival contentions made by learned counsel for the parties and perused the record carefully.

7. In the present case, it is not in dispute that in the past also, the petitioner had availed parole on different occasions and had surrendered before the jail authorities on time, after availing parole/furlough. It is also the admitted case of the respondents that the present petitioner had already undergone 19 years, 06 months and 18 days of total sentence including remissions and he was eligible for consideration of his case for grant of parole. However, respondent No.2- District Magistrate, Saharanpur had not taken any action on the case, which was initiated by respondent No.3 on 12.06.2024. As per Rule 12 of the “Act”, the maximum time to be taken for processing an application for regular parole by the District Magistrate is two weeks. In the present case, admittedly,



the case is pending with District Magistrate, Saharanpur, since 12.06.2024. i.e. for the last more than five months. Thus, it is apparent that the competent authority was bound to presume that there was nothing adverse against the prisoner and even the competent authority was bound to take a decision within a period of two weeks, which has not been done.

8. Thus, in view of the above discussion, the present petition is allowed and the petitioner is ordered to be released on regular parole from 12.11.2024 for a period of 04 weeks, subject to his furnishing necessary surety bonds/bail bonds to the satisfaction of the concerned Trial Court/CJM/Duty Magistrate. The petitioner is directed to surrender before the jail authority on completion of period of 04 weeks. It is made clear that no further extension of time shall be granted under any circumstances.

09. Pending application(s), if any, stand(s), disposed of, accordingly.

07.11.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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