



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRWP 11651 of 2024
Date of Decision:28.01.2025

Randhir ...Petitioner
Vs.
State of Haryana ...Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Randeep S. Dhull, Advocate, for the petitioner.
Mr. Gurmeet Singh, AAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the present petition under Articles 226/227 of the Constitution of India read with Section 3 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 (hereinafter to be referred as ‘the Act’) with a prayer to quash the order dated 22.11.2024 (Annexure P-1) passed by the Divisional Commissioner, Karnal, respondent No. 2, whereby, the prayer of the petitioner to grant him regular parole was declined.
2. Learned counsel for the petitioner submits that vide judgment and order dated 23.01.2014, the present petitioner was

ordered to be convicted by the Court of Additional Sessions Judge, Bhiwani, in case FIR No. 297 dated 03.09.2012 registered under Section 302 of IPC and Section 27 of the Arms Act at Police Station Sadar Dadri, District Bhiwani and was sentenced to undergo imprisonment for life.

3. Learned counsel for the petitioner contends that the petitioner had filed an appeal, i.e., CRA D-286-DB-2014 titled as **“Randhir Vs. State of Haryana”**, which was also dismissed by this Court on 29.09.2022 and at present, the petitioner is undergoing his sentence in District Jail, Karnal. Learned counsel further contends that the petitioner had always maintained good conduct in the prisons and the jail authorities have allowed the petitioner to undergo the sentence in the open jail. It further requires mention that earlier also, the petitioner had availed parole and furlough 12 times and had surrendered on time and without any complaint from any corner. Consequently, the petitioner moved an application to respondent No. 4 to avail the parole to enable him to meet his family members and to fulfill other obligations of the family. Still further, the mother of the petitioner is an old lady and is incapable of performing house-hold chores whereas his only son aged 21 years is a student. Consequently, the financial condition of the family was very poor and the petitioner wanted to help the family in various agricultural operations. Even, the growing and harvesting of crop is a time bound job and the case of the petitioner was initiated with the

recommendations that the petitioner fulfills all the conditions prescribed in the Act.

4. Learned counsel for the petitioner further contends that in the impugned order (Annexure P-1), it has been wrongly mentioned that the prisoner wanted to go on parole for 70 days to meet his family and the reason for prisoner's parole was not justified. It is further wrongly mentioned that in case the petitioner comes out on parole, peace of the village may be disturbed and the prisoner may commit a heinous crime again. In fact, apparently, a wrong report has been submitted with regard to the character of the present petitioner. The petitioner was never involved in any other criminal activity except the case in which he has already been convicted. During his stay in the prison, he had maintained good conduct and is staying in open jail. Apart from that, he was granted parole/furlough 12 times in the past and he had surrendered on time and without any complaint. Thus, the apprehension expressed by the local police this time was imaginary.

5. Learned counsel further submits that in fact this Court has held in number of judgments that on such a frivolous ground/apprehension expressed by the police, no parole can be rejected by the competent authority. It is the duty of the police to maintain law and order and no reasons have been mentioned for expressing such an apprehension by the local police. In fact, the impugned order has been passed by the competent authority mechanically. Learned counsel for the petitioner has also placed

reliance on the judgment passed by this Court in CRWP 1350 of 2022 titled as **“Phool Kumar Vs. State of Haryana and others”**, decided on 25.04.2022, wherein, this Court had observed as under:-

“In spite of the repeated orders having been passed on the said issue by this Court that the declining of parole only on the reason of apprehension of breach of peace is not justified, the competent authorities continue to pass mechanical orders, with which this Court is to deal with on regular basis. We are of the considered opinion that once this Court has opined time and again on this aspect, the reasoning which is being given as such that there is apprehension of breach of peace is totally alien as such for the purposes of grant of parole specially more so, when on an earlier occasion, the petitioner as such had availed the benefit and surrendered back in time. In such circumstances, we are of the considered opinion that the State needs to have a re-look at the issue and issue necessary instructions to the concerned officials to deal with these issues on regular basis. A Division Bench of this Court in Ram Chander vs. State of Punjab and others 2017(3) R.C.R. (Criminal) 340, while taking into account the judgment in CRM-M No.34013 of 2009 titled Varun @ Gullu vs. State of Haryana and others, decided on 26.04.2010, had noticed that the benefits of parole and furlough are regulated by a statute and the authorities cannot act arbitrarily, capriciously or without due application of mind. Declining the request for parole or furlough only for the reason of apprehension of breach of peace, for which there is no

such condition under the Act, was held not to be justified.

6. A short reply by way of an affidavit of the Deputy Superintendent of Prison, District Prison, Karnal has been filed on behalf of the respondent-State and the same is taken on record.

7. Learned State counsel has vehemently opposed the submissions made by the learned counsel for the petitioner and submitted that the Superintendent of Police, Charkhi Dadri had raised certain objections on the parole of the petitioner and his temporary release was not recommended by the District Magistrate, Charkhi Dadri. The local police had expressed the possibility of breach of peace and raised objections that in case the petitioner/prisoner is released on parole, he may remain absent and may commit some serious offence.

8. I have heard learned counsel for the parties and perused the record.

9. Section 3 of the Act provides for temporary release of convicted prisoners on parole and the same has been reproduced below:-

3. Temporary release of convicted prisoner on regular parole on certain conditions-

(1) The Competent Authority shall grant regular parole to a convicted prisoner subject to such conditions and procedure as specified under Sections 11 and 12.

(2) The period for which a convicted prisoner may be released under this Section shall be ten weeks in a

*calendar year cumulatively and **the convicted prisoner may avail it in two parts;***

Provided that in case of delivery of a female convicted prisoner, the period of release under this section shall be six months, beginning from one month prior to the expected date of delivery as certified by the Medical Officer of the jail.

(3) Convicted prisoner who has not completed one year of sentence after conviction shall not be eligible for regular parole.

Provided that the restriction shall not be imposed on old aged convicted prisoner of seventy years or above in case of male and sixty five years or above in case of female.

(4) The report of the Deputy Commissioner of Police or the Superintendent of Police, as the case may be and recommendations by the District Magistrate shall be submitted to the competent authority within time limit as specified under this Act, for temporary release of a convicted prisoner on regular parole.

(5) The period of release under this Section shall not count towards the actual sentence of a prisoner. No ordinary remission shall be granted for this period.

10. As per Section 3 of the Act, the convicted prisoner is entitled to be released under Section 3 of the Act for a period of 10 weeks in a Calender year and the convicted prisoner may avail it in two parts. In the past also, the petitioner had avail parole/furlough on 12 occasions and on every time, the petitioner had surrendered on time and without any complaint. Moreover, the petitioner was never

declared as “hardcore prisoner” and as per Rules, he was entitled to release on parole. Still further, the only ground for rejection of parole of the petitioner, as mentioned in the impugned order (Annexure P-1) is that the petitioner may indulge in criminal activity and may remain absent and may also commit some other heinous crime. In the impugned order (Annexure P-1), it has been observed by the competent authority that the prisoner had not indulged in any criminal activity during his last parole/furlough. Apart from that, the petitioner has maintained good conduct in jail and as a consequence, he is being kept in open jail by the competent authority. Thus, the impugned order dated 22.11.2024 (Annexure P-1) passed by the Divisional Commissioner, Karnal, is set-aside and the petitioner is ordered to be released on parole for a period of four weeks subject to his furnishing personal/surety bonds to the satisfaction of the Superintendent of Prison concerned, where, he is lodged. In case the petitioner does not surrender on time, he shall be immediately arrested by the SHO, having the jurisdiction over the area and shall be produced before the concerned Area Magistrate, for committing him to prisons.

28.01.2025

(N.S.SHEKHAWAT)

amit rana

JUDGE

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