

**(1995) 09 P&H CK 0073**

**In the Punjab And Haryana At Chandigarh**

**Case No : Criminal Miscellaneous No. 8767-M of 1995**

Inder Sain

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision :** 07-09-1995

**Acts Referred:**

**Citation :** (1995) 3 RCR(Criminal) 614

**Hon'ble Judges :** P.K.Jain, J

**Advocate :** K.S. Godara, Mukesh Kaushik, Advocates for appearing Parties

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## **Judgement**

P.K. Jain, J.

1. This petition has been filed under Section 482 of the Code of Criminal Procedure read with Articles 226/227 of the Constitution of India for the issuance of direction to the respondents to release the petitioner temporarily on 3 weeks" furlough under section 4 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (hereinafter called as "the Act").

2. The petitioner was convicted and sentenced under Section 304B, Indian Penal Code, and is undergoing sentence in Central Jail, Bhiwani. He applied for his release on furlough for agriculture purposes under section 4 of the Act vide petition CrI. Misc. No. 2378M of 1994, which was disposed of with a direction to the respondents to release him as such on his furnishing surety to the satisfaction of the District Magistrate, Bhiwani. Unfortunately, the relatives of the petitioner were unable to approach the District Magistrate, Bhiwani, well within time and the petitioner could not avail the said release. It is further stated that he has availed parole and furlough even earlier and never misused his such temporary release from the jail and always surrendered in time. Now the petitioner has again prayed that directions be issued to the respondents to release him temporarily on furlough for agriculture purposes for 3 weeks.

3. Notice of motion was given to the respondents. In reply it has been admitted that the petitioner fulfils all the necessary conditions laid down in Section 4 of the

Act for the release of a convict on furlough. The only ground on which the present petition has been opposed is that by order dated 1.9.1994 the petitioner was allowed the privilege of furlough for the second time but the petitioner could not arrange surety to the satisfaction of the District Magistrate, Bhiwani within a period of six months and as such he is not entitled to file the present petition. It has been admitted that even earlier the petitioner was released on parole as well as on furlough for three weeks and he never misused his temporary release.

4. It may be repeated that according to the respondent themselves, the petitioner fulfils all the necessary conditions laid down in Section 4 of the Act for his release on furlough for agriculture purposes. The only ground of opposition is that in Crl. Misc. No. 2378M of 1994, vide order dated 1.9.1994, the petitioner was allowed furlough for two weeks but he failed to avail the same since he could not arrange surety to the satisfaction of the District Magistrate, Bhiwani, within a period of six months. This is no reason to oppose the request of the petitioner in the present petition. If the relatives of the petitioner could not approach the District Magistrate, Bhiwani, within the relevant period for furnishing security/surety to his satisfaction, the petitioner cannot be denied the benefit under Section 4 of the Act if he is otherwise entitled. There is no other ground of opposition. The learned counsel for the petitioner has conceded that the petitioner has already availed the benefit of furlough under Section 4 of the Act for a period of 3 weeks. Therefore, the petitioner is entitled to 2 weeks' furlough for agriculture purposes for the second time as provided under Section 4 of the Act. As a result of all the reasons mentioned above this petition is allowed. The respondents are directed to release the petitioner, temporarily on furlough for two weeks on usual terms to the satisfaction of the District Magistrate, Bhiwani.