
(2010) 09 P&H CK 0450

In the Punjab And Haryana At Chandigarh

Case No : Criminal W.P. No. 969 of 2010 (O and M)

Krishan @ Ballu

APPELLANT

Vs

The State of Haryana and Others

RESPONDENT

Date of Decision : 21-09-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 — Section 3, 3(1), 4, 6

Penal Code, 1860 (IPC) — Section 302

Citation : (2011) 1 RCR(Criminal) 1

Hon'ble Judges : Ram Chand Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ram Chand Gupta, J.—The present petition has been filed u/s 482 Code of Criminal Procedure for grant of agricultural parole to Petitioner for six weeks u/s 3(1)(c) of the Haryana Good Conduct Prisoners (Temporary Release) Act 1988 (hereinafter to be referred as the "Act").

2. I have heard learned Counsel for the Petitioner and have gone through the whole record carefully.

3. Petitioner was convicted and sentenced to undergo life imprisonment in case FIR No. 161, dated 16.7.1994, u/s 302 IPC, registered at Police Station Kharkhoda, by learned Sessions Judge, Sonapat, vide judgment dated 7.4.1997. Criminal Appeal bearing No. 487-DB of 1997 filed by Petitioner against the said judgment was dismissed by this Court vide judgment dated 16.1.2007 and he was readmitted in jail on 2.3.2008. Petitioner has already undergone seven years eight months and ten days of sentence including under trial period. He has already availed three times six weeks parole, i.e., from 10.7.1998 to 22.8.1998; 22.10.1999 to 11.12.1999; & 22.5.2001 to 4.7.2001 and two times four weeks parole, i.e., from 19.5.1999 to 17.6.1999 and 10.1.2001 to 8.2.2001 and three

weeks furlough from 31.7.2000 to 22.8.2000 after conviction. He has also availed three weeks emergency parole from 29.12.2009 to 20.1.2010 on death of his mother and four weeks parole from 14.5.2010 to 12.6.2010. He remained on bail from 5.7.2001 to 25.9.2007. Case of Petitioner for his release on agricultural parole was initiated by Superintendent District Jail, Karnal, vide letter Nos. 15658-59, dated 30.10.2008 and sent to the concerned District Magistrate, Sonapat, and Commissioner, Rohtak Division, Rohtak for verification and recommendation, as per the rules. However, District Magistrate, Sonapat, found that there is no agricultural land in the name of the Petitioner. It has also been found that Petitioner is having two sons, one of them is a truck driver and another is studying in class 12th. It was also mentioned that Petitioner may commit any heinous crime on arrival on parole and hence his release on agricultural parole was not recommended.

4. On the directions of this Court, fresh report was called from Tehsildar, Kharkhoda, and he intimated that there is 48 kanal 15 marla of agricultural land in the name of father of Petitioner-Dharam Singh.

5. It has also been mentioned that Petitioner has already availed parole for four weeks from 14.5.2010 to 12.6.2010 and that furlough case of Petitioner to meet his family members has also been initiated vide office letter Nos. 12023-24 dated 2.7.2010 and sent to the concerned District Magistrate, Sonapat and Commissioner, Rohtak Division, Rohtak, for necessary verification and recommendation u/s 4 of the Act.

6. As per Section 3(1)(c) of the Act a convict can be released on parole if he is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land or in his father's undivided land, actually in possession of the Petitioner.

7. However, in this case no land is owned by the Petitioner and though some land is owned by his father and however, the same is not in his exclusive possession. As per jamabandi for the year 2006-07 placed on record, it is shown that the land is in possession of the father of the Petitioner which was also mortgaged by father of Petitioner with Punjab National Bank, Sisana.

8. Competent authority, i.e., Commissioner, Rohtak Division, Rohtak, while declining the request of the Petitioner for his release on parole has mentioned that there is no land in the name of the convict and that there are other members of the family to do agricultural work. It is also mentioned that the convict may also commit any heinous crime on arrival on parole and hence, District Magistrate and Superintendent of Police have not recommended his release on parole for agricultural purpose.

9. Section 6 of the Act provides that competent authority can refuse to release of a convict on parole. The same reads as under:

6. Prisoners not entitles to be released in certain cases. - Notwithstanding

anything contained in Sections 3 and 4, no prisoner shall be entitled to be released under this Act if, on the report of the District Magistrate, the State Government or an officer authorised by it in this behalf is satisfied that his release is likely to endanger the security of the State Government or the maintenance of public order.

10. Hence, a careful perusal of the aforementioned provision shows that parole can be refused if release of a convict is likely to endanger the security of the State or maintenance of public order. Hence, this Court is to see as to whether the impugned order passed by the competent authority is covered by any of the such grounds.

11. In the present case there is no land in the name of Petitioner and there is no land in exclusive possession of the Petitioner. Hence, he is not entitled to be released on agricultural parole u/s 3(1)(c) of the Act. Further competent authority is of the view that if he is released on parole, he is also likely to disturb the public peace.

12. Hence, it cannot be said that any illegality has been committed by the competent authority, i.e., Commissioner, Rohtak Division, Rohtak, in passing the impugned order, Annexure P1, warranting interference by this Court.

13. Hence, there is no merit in the present petition. The same is, hereby, dismissed.