
(1996) 08 P&H CK 0130

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 13749-M of 1996 (O&M)

Sunder Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 20-08-1996

Acts Referred:

Citation : (1996) 3 RCR(Criminal) 678

Hon'ble Judges : Swatanter Kumar, J

Advocate : N.S. Bhinder, Sunil Panwar, Advocates for appearing Parties

Judgement

Swatanter Kumar, J.

1. I have heard the learned counsel for the parties.

No reply has been filed on behalf of the State. Learned counsel appearing for the State submits that the case of the State is clear from Annexure P1 which is well reasoned order declining temporary release of the petitioner on parole.

2. The facts giving rise to this petition are that Sunder Singh petitioner is convicted undergoing life imprisonment for an offence under Section 302/34 of the Indian Penal Code as sentenced by the learned Sessions Judge, Sonapat vide judgment dated 28.5.1994. It is averred in the petition that the petitioner had moved an application for release on temporary parole under Section 3(1)(d) of the Haryana Good Conduct Prisoners (Temporary Release) Act for agricultural purpose. His case is stated to have been forwarded by the Deputy Commissioner, Sonapat to the Director General of Prisons, Haryana on 4.7.1995. However, the Director General of Prisons, Haryana vide his order dated 10.1.1996 copy of which is Annexed as P1 to this petition declined the request of the petitioner for grant of benefit to the petitioner. It has been stated in the petition that the father of the petitioner is 80 years old person and he has minor children and it is claimed that floods in August October, 1995 had damaged his house to a great extent. It is further stated in the petition that the petitioner was released on bail during trial and he has never been found guilty of any jail offence. On the other

hand his conduct has been good during his detention for all this period and he has also earned remissions of 8 months and 4 days. Learned counsel for the petitioner has argued that on these facts the impugned order, Annexure P1 cannot be sustained in law. The reason given in Annexure P1 is that "this prisoner is quarrelsome by nature and due to this reason, the Deputy Commissioner, Sonapat has not recommended the release of the aforesaid prisoner on parole." I find that this reason does not seem to be well founded primarily for the reason that the order as communicated to the petitioner does not indicate even a single instance/incident when the petitioner was found to be quarrelling with others. Secondly during the detention in the jail, he has not been convicted nor proceeded against for committing jail offence. It is not appropriate for the authority to make orders without any basis whatsoever. Every order especially which deprive the benefit to the petitioner/convict which is otherwise available to him in accordance with law should be an order which would be reasoned one giving reasonable impression to the Court as to why and in what manner the authority concerned had exercised the discretion. These are not mere administrative orders simpliciter, but are orders which affect the substantial right granted under the provisions of the Act to the petitioner. These provisions themselves provide for grounds on which parole should be granted or can be refused. The ground indicated in the impugned order does not find mentioned in any of the provisions of the Act. The authority would not be justified in not considering the grounds which are indicated in the statute itself, as such approach would frustrate the very right which is provided under the same statute. Learned counsel for the petitioner has relied upon the case of Joginder Singh v. State of Punjab, 1988(2) RCR 548 and to the judgment of this Court in Crl. M. No. 18625M of 1995 and Crl. M. No. 19837M of 1995 where after discussing various judgments of this Court it was held that such a ground and in this vague manner cannot be sustained in law to deny the benefits which have been provided under a statute to convict. No judgment to the contrary has been brought to my notice by the learned counsel for the State.

3. In view of settled principles of law and the circumstances of this case, I consider it a fit case to set aside the impugned order, Annexure P1 to this petitioner. While quashing this order, it is directed that the petitioner would be released on temporary parole for a period of four weeks from the date of his release subject to such terms and conditions as may be imposed by the District Magistrate, Sonapat. The petitioner in all circumstances shall surrender on the expiry of four weeks from date of his release. In the event of default, the State would be at liberty to arrest the petitioner without any further reference to this Court.

4. The petition is accordingly disposed of. There shall be no order as to costs.