

(2008) 05 P&H CK 0176
In the Punjab And Haryana At Chandigarh
Case No : Criminal Misc. No. 3475-M of 2008

Suresh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 23-05-2008

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482

Citation : (2008) 3 RCR(Criminal) 367

Hon'ble Judges : Sham Sunder, J

Bench : Single Bench

Advocate : V.S. Rana, for the Appellant; A.K. Jindal, AAG, Haryana, for the Respondent

Final Decision : Allowed

Judgement

Sham Sunder, J.—The petition has been filed, u/s 482 Cr.P.C., for quashing the impugned order (Annexure P-1), passed by the Commissioner, Hisar Division, Hisar, vide which the application of the petitioner, for agricultural parole, was rejected, on the ground, that his family members, were available, in the house, who could conduct agricultural operations, and look after the land.

2. On notice of motion, the respondents put in appearance, and filed the written statement. It was stated therein, that the District Magistrate, Hisar, did not recommend the application for parole of the petitioner, for agricultural purpose, on the ground, that his wife and children, were available, in the village, and they could conduct the agricultural operations. It was further stated that on the report of the District Magistrate, the application of the petitioner for parole, for the aforesaid purpose was rejected. It was also stated that the petitioner was convicted and sentenced, in a number of cases. It was further stated that the impugned order passed by the competent authority, is legal and valid.

3. After hearing the Counsel for the parties, and after going the record of the case, I am of the considered opinion, that the impugned order is arbitrary, and

liable to be set aside. It was admitted by the District Magistrate, Hisar, in his report, as also by the Commissioner, Hisar Division, Hisar, in impugned order Annexure P-1/RT-2, that the petitioner owns land, in the village. The mere fact that his wife and children were available in the village did not mean that his presence, for the purpose of conducting the agricultural operations, was not necessary. It is a matter of common experience, that agricultural operations, cannot be conducted single handedly. For conducting agricultural operations, the services of the additional hands are always required. The wife and the children of the petitioner, cannot cultivate the land, sow the crops, and reap the same, without the assistance of the petitioner. They cannot be said to have the skill of management of land, as the petitioner has. Under these circumstances, in my opinion, the Commissioner, Hisar Division, Hisar, could not have rejected the application, of the petitioner, for the aforesaid purpose, arbitrarily. The order (Annexure P-1/RT-2), thus, deserves to be set aside.

4. For the reasons recorded above, the petition is accepted. Then order Annexure P-1/RT-2, is set aside. The petitioner is directed to be released on parole for four weeks, from the date of release, for agricultural purposes, on furnishing the bail bonds, in the adequate sum, to the satisfaction of the District Magistrate, Hisar, if, he is otherwise, found eligible for the same, in accordance with the relevant rules, regulations and instructions. The District Magistrate, at the time of release of the petitioner on parole, may prescribe any other conditions, in consonance with the provisions of rules and regulations. After the expiry of the period of parole, the petitioner shall surrender before the Jail Authorities.