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2025:PHHC:111391



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Reserved on: 18.07.2025

Pronounced on:22.08.2025

SONU ALIAS AMAR

.....PETITIONER

VERSUS

STATE OF HARYANA AND ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Randeep Singh Dhull, Advocate
for the petitioner.

Mr. Baljinder Singh Virk, Sr DAG, Haryana

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this court has been invoked under article 226/227 of the Constitution of India read with Section 4 of the Haryana Good Conduct Prisoners (Temporary Release) Act 2022 for issuing writ in the nature of certiorari quashing the speaking order dated 24.04.2025 passed by respondent no.4 (Annexure P-1) where four weeks furlough has been dismissed arbitrarily by misconstruing and misinterpreting the provisions enumerated in Para (3) of sub section 3 of Section 4 of the Haryana Good Conduct Prisoner (Temporary Release) Act 2022.

2. Factual matrix of the case unfolds that an FIR No. 275 dated 26.12.2005 was registered U/s 302,328,364-A,120-B,506,201,34 IPC at Police Station Gannaur, District Sonapat sentencing him to undergo

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Rigorous imprisonment for life and fine of Rs.38,000/-, in default to undergo further Rigorous Imprisonment of 3 years and 9 months. Aggrieved against the sentence awarded to him, the petitioner filed an appeal before the Hon'ble High Court bearing CRA-D-1066-DB-2010 titled "*Sonu @ Amar vs State of Haryana*" which has been dismissed vide order dated 11.10.2012.

3. Counsel for the petitioner contends that the petitioner submitted his request before the Superintendent of Jail, Sonipat for temporary release on furlough for a period of four weeks in lieu of remission period, (that has been earned by him for his good conduct in the jail premises) to check on the well being of his old aged parents wherein his presence was required at his home to perform certain obligations and also to regain his social ties. He further contends that respondent no.4 i.e Superintendent of Jail, District Jail, Sonipat has in his personal capacity, without forwarding the case matter to Respondents no. 2 and 3 who are the penultimate authority in taking decision of the matter had passed the speaking order dated 24.04.2025 vide letter no.2906 in his independent capacity claiming that since the petitioner has been convicted for aforementioned provisions, he is not entitled to the grant of leave of furlough as per Para 3 of Sub Section (3) of Section 4 of the Haryana Good Conduct Prisoner (Temporary Release) Act 2022.

4. Counsel for the petitioner vehemently argues that the action of respondent no.4 has caused grave injustice to the petitioner wherein he has earned the remission period of furlough in view of his good conduct at the

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jail premises which has not been taken into consideration by the jail authorities.

5. Per contra, learned State counsel has filed reply by way of an affidavit of Rajender Singh, Superintendent of Prison, District Prison, Sonapat on behalf of Respondents No.1 to 4 which is taken on record. He opposes the grant of Furlough to the petitioner by submitting that the petitioner has been convicted for crime of murder with intention of collection ransom and as per section 4 of Sub section 3 of the Haryana Good Conduct Prisoners (Temporary Release) Act 2022, he is not entitled for the relief of furlough. He further submits that the petitioner has already availed parole for total 16 times as per provisions of the Parole Act 2012, but now as per the Haryana Good Conduct Prisoners (Temporary Release) Act 2022, he is not entitled to be released on furlough.

6. Heard counsel for the petitioners at length and meticulously perused the record in hand.

7. Before delving into the merits of the case, it would be apposite to understand Section 4 sub section 3 of Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 which is reproduced herein below:-

4. (3) "Convicted prisoner who has not completed three years sentence after conviction shall not be eligible for furlough:

Provided that the convicted prisoner who has been punished for any jail offence or for violation of conditions of temporary release during the last three years shall not be eligible for furlough:

Provided further that the convicted prisoners sentenced under the Narcotic Drugs and Psychotropic Substances Act, 1985(Central Act 61 of 1985) or sedition or rape with murder or robbery or dacoity with murder or murder with intention of collecting ransom or extortion or sexual offences against a child below twelve years of age or sentenced to undergo imprisonment till natural life shall not be eligible for furlough”.

8. The court is sanguine of the fact that there can't be a society without crimes. Man essentially is a fighting creature, thus to think about a crimeless society is meaningless. Laws are the guidelines of activities managing the direction of people in the public arena. The behaviours which are made passable under the law are treated as legitimate. The miscreant carrying out wrongdoing is rebuffed for his blame under the Rule that everyone must follow. Thus it can be stated that, *The Institution of Prison is indispensable for every country (India)* to punish, the convicted criminals and maintain law and order, peace and security, and a balanced ambience in a country.

9. It can be distinctly stated that parole and furlough are the parts of the penal and the prison system for humanizing prison administration but the two have different purposes. For the sake of the security of the society, furlough can be rejected on the rarest of the rare case. Furlough is not a matter of right” means it is not a guaranteed benefit; rather, it is a discretionary concession that may be granted or denied based on established criteria, circumstances, and the authority's judgment.

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10. Coming to the case in hand, it is pertinent to mention that the petitioner has availed parole/furlough 16 times under the Parole Act 2012, but a reading of Section 3 sub section 4 of the Haryana Good Conduct Prisoners(Temporary Release) Act 2022 makes it abundantly clear that the petitioner does not stand eligible to be released on furlough, since he has been punished imprisonment for life. It is to be borne in mind that the grant of parole/furlough is to be considered as per law applicable on the date of consideration of parole and not on the date of conviction. This proposition was discussed in case titled as ***“Ajay Jadeja alias Janak vs State of Haryana and others Crl. W.P No. 2104 of 2012”*** wherein it has been held by this court that :-

8.The right of a convict to get himself released temporarily on parole is not a substantive right. It is a concession given to a convict during his imprisonment, on fulfilling certain conditions. Those conditions have been prescribed by the Principal Act and the Haryana Good Conduct Prisoners(Temporary Release) Rules, 2007. In case of change of conditions in the Principal Act and Rules, which became applicable to all convicts, whether convicted before or after the Amendment Act. Those conditions are to be looked into and applied on the date of making an application for temporary release of a prisoner and putting up the same before the competent authority for its consideration. If on that date, a particular prisoner is not entitled for temporary release, he cannot claim that on the date of his conviction, the Rules were

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different and he was entitled for temporary release under those rules and he should be granted the benefit of temporary release.”

11. A similar view has been discussed in case titled **“Vakil Raj vs State of Haryana and others, 2015(5) Law Herald 4242”** wherein it was held that :-

“23. The argument that amending Act would not be applicable to the convicts, who stand convicted prior to the insertion of Clause (aa) in Section 2 is again not tenable. The Division Bench of this Court in Jagpreet Singh's case (supra) has referred to judgments of Honble Supreme Court in Varinder Singh . State of Punjab & another 2014(1) RCR (Criminal) 663 : 2014(1) Recent Apex Judgments (R.A.J.) 427 : (2014) 3 SCC 151 and Harjit Singh . State of Punjab, 2011(2) RCR (Criminal) 560 : 2011(2) Recent Apex Judgments (RAJ.) 373: (2011) 4 SCC 441, However; Varinder Singh's case (supra) pertains to a conviction of a jail offence under Section 45 of the Prisons Act, 1894, whereas in Harjit Singh's case (supra), again the question was of enhancement of a sentence for an offence under Section 18 of Narcotic Drugs & Psychotropic Substances Act, 1985 by virtue of notification dated 18.11.2009. Thus, both the judgments have no applicability to the facts of the present case. The issue raised in the present case is not of conviction, but of grant of parole, which is a concession, as laid down in Ajay Jadeja's case (supra) relied upon by the learned State counsel. The amended definition would be applicable to all convicts, who were convicted prior to amendment and insertion of Clause (aa) in Section 2 of the Act. The grant of parole is to be considered as per law applicable on the date of consideration of parole.”

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12. After taking into consideration the dictums laid down by the Apex Court as well as the case at hand, this Court opines that no prisoner has a vested right to get the benefit of temporary release on parole/furlough. It is a concession, which is given to a prisoner on fulfilling certain conditions. If on the date of making an application for grant of temporary release, a prisoner fulfills all the conditions applicable in his case, he can be considered for such concession for a limited period. However, In the instant case, the petitioner being a *hardcore prisoner* as per section 3 sub section 4 of the Haryana Good Conduct Prisoners(Temporary Release) Act 2022 does not fulfil the criteria for being released on furlough, therefore, he cannot be granted the concession of furlough. It is to be borne in mind that the application for parole/furlough is to be decided as per the prevailing policy at the time of considering the application and not as per the policy that was prevalent at the time of conviction of accused.

13. In the light of the discussion made herein above and the spectrum of law discussed, this court is of the firm view that the petitioner cannot be granted the concession of Furlough, therefore the order dated 24.04.2025 passed by respondent no.4(Annexure P-1) stands upheld.

14. The instant petition being devoid of merits stands dismissed.

15. Ordered accordingly.

(SANDEEP MOUDGIL)
JUDGE

22.08.2025

Meenu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No