

From

Director General of Police (Prisons)
Punjab, Chandigarh.

To

All the District Magistrates,
Punjab. *Jalandhar*

No. GI/P-4/ 11214

Dated: 27/7/10

Subject: Regarding parole cases of the convicts.

A brief note on the subject on the basis of direction of Hon'ble High Court in CrI. Misc No. 34013 - of 2009 Varun @ Gullu, CrI. Misc No. 1777 of 2010 Sandeep Kumar, CrI. Misc No. 1813 of 2010 Raman Kumar @ Garg, CrI Misc No. 4467 of 2010 Satyawan is enclosed for information and necessary compliance.

Please acknowledge receipt.

(Signature)
for Director General of Police (Prisons) Punjab.
26/7/10

OFFICE of THE DISTRICT MAGISTRATE, JALANDHAR.

No. 901-902 / Reader Dated 11/8/2010

A copy is forwarded to the:-

1. Commissioner of Police, Jalandhar

2. Senior Supdt. of Police, Jalandhar (Rural)

with reference this office letter No. 674-75/

Reader Dated 14/06/2010 for information and

Compliance.

for District Magistrate
Jalandhar. *Sc*
19/8/10

Subject: Regarding parole case of the convicts.

I would like to bring it into your kind notice that in the CrI. Misc No. M 34013 of 2009 CrI. Misc No. M 1777 of 2010, CrI. Misc No. M 1813 of 2010 and CrI. Misc No. M 4467 of 2010, the Hon'ble Punjab and Haryana High court Chandigarh has taken serious view of the parole/ furlough cases of the convicts and issued the direction regarding parole cases of the convicts.

The Hon'ble Court observed that the convicts undergoing life imprisonment, sought parole for the purpose to meet their family members, agricultural purpose etc. Such requests have been declined for the reason that there is apprehension of breach of peace or that there are chances of committing untoward incident with the complainant family.

It is argued that denial of parole amounts to denial of opportunity to return to the civil society, as brief spells of parole and furlough provides an opportunity to a prisoner to adjust in the civil society. Therefore, parole or furlough should be granted as a rule to avoid such mental and physical condition of a prisoner.

The Haryana Act is the liberalized version of the Punjab Act, though the provision are substantially identical.

Section 6 of both the statutes as reproduced-specifies the reason for declining the parole or furlough. The reason given is that the release of a

Handwritten notes at the bottom of the page, including "Section 6 of both the statutes as reproduced-specifies the reason for declining the parole or furlough. The reason given is that the release of a" and other illegible text.

tranquility, such as unlawful assembly, riots, affray, rash driving promoting enmity between classes and the like.

The concept of "public order" must be distinguished from the popular concept of "law and order" and "Security of State". They refer to three concentric circles "law and order" represents the largest circle within which is the next circle representing "public order" and the smallest circle represents the "security of the State". Hence, the activity which effects the law and order may not necessarily effect public order and an activity which may be prejudicial to public order may not necessarily endanger "security of the State". The twin ground of endangering "Security of State" and "public order" may or may not be exhaustive on the ground for refusing temporary release but these ground go a long way to suggest that grounds for refusal must be these and like grounds.

On the other hand, if a prisoner satisfies the conditions of sub clause (a) (b) and (c) contemplated under Sub Section (i) of section 3, the release of prisoner on parole is to be accepted unless such release endanger security of State or public order. Apprehension of breach of peace can be dealt with by the State by invoking other provision of the statutes such as section 107 and 151 of the Code of Criminal Procedure.


Keeping in view the above the Hon'ble Punjab and Haryana High court issued the following instruction:-

- (i) The request for parole and furlough should be considered by the District Magistrate within 21 days. Superintendent Jail within 05 days and Director General of Prisons within 10 days except in case of parole sought under clause (a) and (b) of sub section 1 of Section 3 of the Act.

(ii) In respect of release sought under clause (a) (b) and for emergent sufficient cause within clause (d) of Sub Section 1 of section 3 the State Government shall issue necessary instructions for consideration of the request of parole expeditiously and preferably by delegating such powers of the State Governments to District Magistrate or any other officer, it considers appropriate.

(iii) The authorities concerned shall consider the request of temporary release on parole or furlough and decline the same only on the grounds mentioned under Section 6 of the Act. Any mechanical rejection of request of release on parole or furlough such as for breach of apprehension of peace is not warranted by law. The competent authority shall pass reasoned and speaking order, whenever it is to decline request for temporary release specifying endanger to the security of the State or of public order.

You are therefore, requested to ensure compliance to the order of Punjab & Haryana High Court in the Crl. Misc No. 34013 M of 2009 dated 26-4-2010 (Copy of the which has already been sent to you by Hon'ble High Court directly)


Director General of Prisons (Prisons)
Punjab, Chandigarh - 160001

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