

THE LAW ON PAROLE AND FURLOUGH IN INDIA: AN OVERVIEW

Parole:

Parole is the conditional release of prisoners i.e. an early release of a prisoner, conditional on good behavior and regular reporting to the authorities for a set period of time¹. The object behind parole is to grant some relief to the prisoners in certain exigencies which may be as follows:

- i. A member of the prisoner's family has died or is seriously ill or the prisoner himself is seriously ill;
- ii. The marriage of the prisoner himself, his son, daughter, grandson, granddaughter, brother, sister, sister's son or daughter is to be celebrated;
- iii. The temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation of his land or his father's undivided land actually in possession of the prisoner;
- iv. It is desirable to do so for any other sufficient cause.

Parole can be granted only after a portion of the sentence is served. If the conditions of parole are not abided by the parolee, he may be returned to serve his sentence in prison.

There are many State Governments who have formulated guidelines on parole in order to bring out the objectivity in the decision making and to decide as to whether parole needs to be granted in a particular case or not. In such cases, the decision to whether grant parole or to not grant parole is taken in accordance with the guidelines so framed. The guidelines of some of the States stipulate two kinds of paroles, namely; (i) Custody Parole and (ii) Regular Parole.

'*Custody Parole*' is generally granted in emergent circumstances like:

- i. Death of a family member;
- ii. Marriage of a family member;
- iii. Serious illness of a family member;
- iv. Any other emergent circumstances.

Whereas '*Regular Parole*' is granted in the following cases:

- i. Serious illness to a family member;

¹ *Asfaq Vs. State of Rajasthan & Ors.*, (2017) 15 SCC 55

- ii. Critical conditions in the family on account of accident or death of a family member;
- iii. Marriage of any member of the family of the convict;
- iv. Delivery of a child by the wife of the convict if there is no other family member; to take care of the spouse at the time;
- v. Serious damage to life or property of the family of the convict including damages caused by natural calamities;
- vi. To maintain family and social ties;
- vii. To pursue the filing of a special leave petition before the Hon'ble Supreme Court against a judgment delivered by the High Court convicting or upholding conviction, as the case may be.

Furlough:

Furlough means granting leave of absence for a specified period of time to a convict from prison. It is a conditional release and is granted as good conduct remission. The right to be released on furlough is a substantial and a legal right of the prisoner and he cannot be denied the same if it is permissible under law². Every State has formulated its own set of rules/guidelines for getting furlough. Whilst rules/guidelines of various States remain more or less the same in spirit, it is only the procedure for obtaining furlough which varies from State to State.

The Hon'ble Division Bench of the Gujarat High Court³ has held that a convict may be denied furlough solely on ground of the offences committed by him as his release will hamper his reform or expose the society to the very danger to shield from which the convict is imprisoned. However, the Hon'ble Division Bench of the Delhi High Court⁴ disagreeing with the rationale of the Hon'ble Gujarat High Court held, that the seriousness of the offence cannot be a criteria to reject furlough without considering the convicts situation and reasons. The authority granting furlough in cases where the convict has been guilty of serious offences should do so with extra caution and also need to write a statement of reasons for granting furlough to such convicts.

Difference Between Parole & Furlough:

Over the years, the Hon'ble Supreme Court through various judicial pronouncements has differentiated between concept of parole and furlough, few of which are listed hereunder as follows:

² *Sharad Keshav Mehta Vs. State of Maharashtra & Ors.* 1989 Cri LJ 681

³ *Juvan Singh Lakhubhai Jadeja Vs. State of Gujrat*, 1973 (14) GLR 104

⁴ *Dinesh Kumar & Ors. Vs. Govt. of NCT Of Delhi* 2012 (129) DRJ 502

- i. Parole can be granted in case of short-term imprisonment whereas furlough is granted in case of long-term imprisonment.
- ii. Duration of parole extends to one month whereas in case of furlough it extends to fourteen days maximum.
- iii. Parole is granted by Divisional Commissioner and furlough is granted by the Deputy Inspector of General of Prisons.
- iv. For parole a specific reason is required, whereas furlough is meant for breaking the monotony of imprisonment.
- v. The term of imprisonment is not included in the computation of the term parole, whereas it is vice-versa in furlough.
- vi. Parole can be granted number of times whereas there is a limitation in the case of furlough.

The provisions of parole and furlough, thus, provide for a humanistic approach towards convicts lodged in jails. The main purpose of such provisions is to afford convicts with an opportunity to resolve their personal and family problems and to enable them to maintain their links with society. Every citizen of this country ought to have a vested interest in preparing offenders for successful re-entry into society. Those who leave prison without strong networks of support, employment prospects, fundamental knowledge of co-existing with the community they return to and without resources stand to diminish their prospects of reformation and increase their chances of failing to fit in the societal structure. Therefore, concepts such as parole and furlough, if used judiciously may help prepare convicts/prisoners to successfully re-enter society and live life as law-abiding citizens.