

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No. 1216 of 2014

Date of Decision : April 22, 2015

Gurtej Singh

.....Petitioner

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Gaurav Sharma, Advocate

Mr. R.S. Randhawa, Additional Advocate General, Punjab

T.P.S. MANN, J.

Petitioner Gurtej Singh has filed the present revision for challenging his conviction under Section 9 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short 'the Act') and sentence of rigorous imprisonment for four months and fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for seven days.

The petitioner was earlier convicted under Section 15 of the NDPS Act in FIR No.64 dated 10.6.2007 registered at Police Station Moonak, wherein he was sentenced to undergo imprisonment for ten years and to pay a fine of Rs.1,00,000/-. On 31.10.2011, he was released on four weeks' parole with a direction to surrender himself on 29.11.2011. However, he did not surrender himself in jail on 29.11.2011. It was only on 11.5.2012 that he surrendered himself in the Court. As he remained absconder for 164 days, he violated the provisions of Section 8(2) of the Act and, thus, made himself liable for punishment under Section 9 of the Act.

In support of its case, the prosecution examined Mela Singh, Assistant Superintendent, District Jail, Sangrur as PW1.

When examined under Section 313 Cr.P.C., the petitioner pleaded innocence and false implication. In defence, he examined DW1 Swaranjit Kaur.

Vide order dated 5.7.2013, learned Chief Judicial Magistrate, Sangrur convicted and sentenced the petitioner, as mentioned above. Appeal filed by him against his conviction and sentenced was dismissed by learned Additional Sessions Judge, Sangrur vide judgment dated 22.1.2014.

Having heard learned counsel for the parties, this Court finds that the petitioner was released on parole on 31.10.2011 for a period of four weeks. After the expiry of the said period, the petitioner was required to surrender before the jail authorities on 29.11.2011. However, the petitioner over-stayed parole and it was on 11.5.2012 that he surrendered in the Court. By that time he had remained absconder for 164 days and, thus, violated the provisions of Section 8(2) of the Act, which made him liable for punishment under Section 9 of the Act. The plea of the petitioner that no notice was issued to him after expiry of his period of parole is no ground to absolve him of the charge against him. At the time when he was released on parole, the petitioner had given an undertaking that he would report back to the jail authorities on 29.11.2011 on completion of the period for which he was granted parole so that he may undergo remaining sentence

already imposed upon him. Similarly, the plea of the petitioner that due to mental illness he could not surrender within the specified time and in this regard he has referred to the testimony of DW1 Swaranjit Kaur, cannot come to his rescue as no material has been placed on record from which it may be inferred that there were compelling circumstances under which the petitioner could not report back to the jail authorities on the expiry of the period for which he was released on parole.

Under these circumstances, no case is made out for any interference in the conviction of the petitioner. However, as regards the sentence of imprisonment, the petitioner needs to be dealt with leniently as it was he himself who had surrendered before the jail authorities, though not within the specified period for which he had been released on parole. Ends of justice would be amply met if the substantive sentence of imprisonment imposed upon the petitioner is reduced to one month.

Resultantly, the conviction of the petitioner under Section 9 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 is upheld. However, his substantive sentence of imprisonment is reduced from four months to rigorous imprisonment for one month. The sentence of fine, alongwith its default clause, is maintained.

The revision is partly allowed, to the extent indicated above.

April 22, 2015
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(T.P.S. MANN)
JUDGE