

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

**CRWP No.1358 of 2014  
Date of decision : 13.05.2015**

**Brij Mohan**

**.....Petitioner(s)**

**Versus**

**State of Haryana & another**

**...Respondent(s)**

**CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY**

Present: Mr. V.S. Rana, Advocate  
for the petitioner.

Mr. S.S. Pannu, DAG, Haryana.

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**ANITA CHAUDHRY, J.**

The petitioner-convict Brij Mohan has challenged the order dated 19.08.2014, passed by respondent no.2 vide which his parole was rejected. Aggrieved thereby he has preferred the present petition.

The petitioner was convicted in a case registered in the year 2000 under Section 302/34 IPC at P.S. Sadar Palwal, District Faridabad and was sentenced to life imprisonment. His appeal filed in 2007 was dismissed on 28.10.2010. The sentence was upheld. The petitioner pleaded that he was maintaining good conduct through out and had availed number of paroles and did not mis-use the concession and had surrendered within time.

The petitioner applied for 6 weeks' parole to enable him to

get his children admitted in the school. It was pleaded that his children were studying in 8<sup>th</sup> Standard in Senior Secondary School, situated at Aligarh Road, Palwal and they could not be admitted because his wife could not arrange funds. The application filed by the petitioner for parole was rejected on the ground that he had committed a jail offence while deputed as night watchman on 30.09.2012. He has averred that the amendment had been made in the Rules in 2012-2013 and according to the respondent, he fell under the category of hard core prisoners and had been awarded punishment for a jail offence, therefore, he was not entitled to parole.

The counsel for the petitioner contends that the petitioner had been punished for the offence he had committed and even after the occurrence, he had gone out on parole in November, 2013 for 4 weeks. It was urged that the amendments in the Haryana Good Conduct Prisoners (Temporary Release) Act, 2012 and 2013 were not applicable in the present case and the amended provision came into operation prospectively and not retrospectively as held in ***Sonu @ Arun Vs. State of Haryana and others in CRWP No.1078 of 2014***, decided by the Division Bench of this Court on 09.02.2015.

It is evident from the record that the petitioner was awarded punishment for the occurrence which took place on 30.09.2012. The convict was posted as night watchman in the barrack. An inspection was carried out and the lock of the complaint box was found open. The Musshkat of the convict was discontinued as punishment, which was judicially appraised by the District & Sessions Judge, vide order dated 12.03.2013. Admittedly, the petitioner had gone out on parole thereafter for 4 weeks in November, 2013. The parole has now been refused on

the ground that the case fell in the category of hard core prisoner as per Section 2 of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2012-2013.

It is not in dispute that the petitioner was convicted in 2006 under Section 302/34 IPC. That was much prior to the amendment made in the Act. The amended provision would come into operation prospectively and not retrospectively.

This issue had been examined by the Division Bench in Sonu's case (supra). The offending act was committed before the amendment came into effect in 2012. The petitioner had been allowed to go on parole even subsequently. The temporary release has been declined on the ground that the petitioner falls in the category of hard core convict. The amended provision could not be applied retrospectively as held in ***Jaivir Vs. State of Haryana*** in CRWP No.793/2014, decided on 09.01.2015.

In the light of the above, the instant petition is accepted and the impugned order is set aside and respondent no.2 is directed to reconsider the case of the petitioner for temporary release on parole without taking into consideration the fact that he had committed a jail offence. The necessary exercise shall be carried out as expeditiously as possible and preferably within 3 weeks after the receipt of certified copy of this order, after complete codal formalities and in accordance with law.

13.05.2015  
sunil

**(ANITA CHAUDHRY)**  
**JUDGE**