

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Writ Petition No.1437 of 2014

Date of Decision:28.01.2015

Yogender

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR.

**Present: Mr.Varinder Singh Rana, Advocate,
for the petitioner.**

**Mr.Naveen Sheoran, Deputy Advocate General,
Haryana, for the respondents.**

MEHINDER SINGH SULLAR, J.(oral)

The contour of the facts & material, which needs a necessary mention for the limited purpose of deciding the core controversy, involved in the instant petition and emanating from the record is that, the application to release the petitioner-convict Yogender son of Sukhbir, on parole for the purpose of his house repair, was declined by means of impugned order dated 09.09.2014(Annexure P-1) by the Superintendent, District Jail, Faridabad (respondent No.2).

2. Aggrieved thereby, the petitioner has preferred the present petition, to challenge the impugned order(Annexure P-1).

3. After hearing the learned counsel for the parties, going through the record with their valuable help and deep consideration of the entire matter, to my mind, the instant petition deserves to be accepted, for the reasons mentioned here-in-below.

4. As is evident from the record that the prayer of the petitioner, to release him on the pointed parole, was declined by respondent No.2, mainly, on the ground that he was awarded punishment for possessing a mobile phone in jail premises and the case falls in the category of “Hardcore Prisoner” as per Section 2 of The Haryana Good Conduct Prisoners(Temporary Release) Amendment Act, 2012 & 2013. It is not a matter of dispute that the petitioner was convicted and sentenced in a criminal case registered against him, vide FIR No.169 dated 09.05.2005, on accusation of having committed the offences punishable under Sections 302, 120-B, 34 IPC and Section 25 of the Arms Act, much prior to the amended Act of 2012 & 2013. Therefore, the amended provision would come into operation prospectively and not a retrospectively, as held by this Court in Crl.Writ Petition No.793 of 2014, titled as **Jaivir Singh vs. State of Haryana and others**, decided on 09.01.2015.

5. Not only that, it has been specifically pleaded by the petitioner that even after the amendment, the petitioner has availed two paroles w.e.f. 01.11.2013 to 14.12.2013, thereafter in the year, 2014. He never misused the concession of parole. This factual matrix is even acknowledged in the reply by the respondents. Sequelly, even after the indicated amendment, the petitioner was granted the benefit of parole of four weeks, by virtue of order dated July 08, 2014 in Crl.Writ Petition No.715 of 2014 by a Coordinate Bench(Surinder Gupta, J.) of this Court. Therefore, he is entitled to be released on parole and his request was declined by respondent No.2, by way of impugned order(Annexure P-1) on illegal grounds.

6. In the light of aforesaid reasons, the instant petition is accepted and the impugned order(Annexure P-1) is hereby set aside. The respondents are directed to grant the benefit of parole to the petitioner for a period of four weeks for the indicated purpose, after completing the codal formalities and in accordance with law.

January 28, 2015
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(**MEHINDER SINGH SULLAR**)
JUDGE