

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

**Crl. Writ Petition No.1504 of 2014
Date of Decision:-30.3.2015**

Balbir @ Bablu

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Surender Deswal, Advocate
for the petitioner.

Mr. Manish Bansal, Deputy A.G., Haryana.

HARI PAL VERMA J.

Prayer in this petition is for quashing of order dated 1.9.2014 (Annexure P-1) whereby the application of the petitioner seeking parole for repair of the house has been rejected on the basis of some report of the District Magistrate, Hapud. The only ground for rejection of the aforesaid application is that there can be danger to the life of the petitioner.

Learned counsel for the petitioner further submits that the report of the District Magistrate, Hapud dated 8.8.2014 (Annexure R-4) is nothing but an attempt to deprive the petitioner of his right to claim parole as provided under the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2014. Learned counsel for the petitioner

argued that as per the Amended Act 2014 the case of the petitioner falls within the parameter of Section 5-A(2) of the Amended Act , 2014, which reads as under :-

“2. For Section 5A of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, the following section shall be substituted, namely :-

'5A. Special provisions for temporary release of hardcore prisoners.--(1) Notwithstanding anything contained in sections 3 and 4, no hardcore prisoner shall be entitled to temporary release or furlough :

Provided that a hardcore prisoners may be released on temporary basis to attend the marriage of his grand child or sibling, or death of his grand parent, parent, grand parent-in-laws, parent-in-laws, sibling, spouse, child or grand child under an armed police escord, for a period of forty-eight hours, to be decided by the concerned Superintendent of Jail :

Provided further that a hardcore prisonere may be released on temporary basis to attend the marriage of his daughter for ninety-six hours and for the marriage of his son for seventy-two hours under an armed police escort, to be decided by the concerned Superintendent of Jail. He shall intimate within twenty-four hours, the concerned District Magistrate and Superintendent of Police in this regard with full particulars of the hardcore prisoner being so released.

(2) Notwithstanding anything contained in sub-section (1), a hardcore prisoner, who has not been awarded death penalty, may be entitled

for temporary release or furlough only if he has completed five years of sentence as a convict in jail excluding the under trial period and has not been awarded any minor or major penalty by the Superintendent of Jail, as judicially appraised by the concerned District and Sessions Judge :

Provided that if the prisoner so released under this sub-section violates any condition of temporary release or furlough, he shall be debarred from such release in future.”

On the strength of the aforesaid reproduced provision petitioner claims his release on parole. Learned counsel for the petitioner further argues that even in the past the petitioner has availed concession of parole for 28 days from 15.2.2011 to 16.3.2011 without any complaint, which is also reflected in the jail custody certificate dated 3.12.2014 (Annexure R-3). The petitioner is on the verge of completion of his sentence and need parole for construction of his house.

Learned State counsel, however, has argued that as per the report of the District Magistrate, if the petitioner is released on parole, his life can be in danger.

Having considered the rival contention of the parties and more particularly when the petitioner has availed parole in the past without there being any complaint against him, the petitioner deserves to be considered for the grant of parole. The petitioner has earlier been granted parole and on completion thereof has surrendered to the jail authorities. Therefore, in the light of the provision of Section 5-A of the Act, the petitioner deserves to be considered for the grant of parole.

Accordingly, the present petition is disposed of with direction

to the respondents authorities to consider the case of the petitioner for grant of parole in the light of the provision of Section 5-A of the Act, within two weeks.

March 30, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE