

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

**CRWP No.1545 of 2014
Date of Decision: May 27, 2015**

Shivraj ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Kamal Narula, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana

FATEH DEEP SINGH, J.

The present petitioner-Shivraj, who has been convicted in FIR No.210 dated 20.7.2008 under Sections 307,435,452,427,323,148 IPC Police Station, Dabwali and sentenced to undergo imprisonment for seven years and whose criminal appeal against this conviction i.e. CRA-S-2704-SB of 2013 is pending in this Court had made representation for grant of parole under the provisions of Sections 3 and 4 of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2013 on the grounds that being a agriculturist he has to cultivate his fields as his only male child is minor and that he had made a prayer for release on parole and through orders dated 9.9.2014 Annexure P/1 his request stood declined on the ground that another case by way of FIR No.207 dated 18.7.2008 under Section 148,307,435,452,427,323 IPC Police Station City Dabwali had

been registered in which he has already been convicted for seven years and, thus, case of the petitioner did not fall within the purview of law being a hardcore prisoner category in terms of Clause 2(aa) (i) (9) of the Haryana Good Conduct Prisoners (Temporary Release) Rules 2013. It is against this order the petitioner has come up in this writ petition.

The State in its stand by way of written reply though had admitted these two facts regarding two criminal cases registered against the petitioner and his conviction therein, however, to the very query of the Court, in the light of what has been argued on behalf of the petitioner by his counsel the definition of hardcore prisoner detailed in Section 2(aa) covers the persons who have been convicted of robbery, dacoity, kidnapping for ransom, murder or attempt to murder for ransom or extortion, rape, serial killing, murder by contract killer so on and so forth.

Learned State counsel could not convince this Court how the case of the petitioner falls in either of these categories to term the petitioner to be covered as hardcore prisoner category. Even Section 2(aa) (ii) comes into play only if during the period of five years immediately before his conviction a person has been convicted and sentenced for commission of one or more offences mentioned in Chapter 12 or Chapter 17 of IPC and even the two cases in which the petitioner has been convicted the judgments are of same very date i.e. 29.7.2013. Copies of the same have been placed on the record by the learned counsel for the petitioner.

Thus, from it all flows that the case of the petitioner does not falls under the category of hardcore prisoner

and, therefore, his request for release on parole needs to be considered and allowed. The impugned orders Annexure P/1 certainly are in violation of the Act and the Rules and, therefore, needs to be set aside by way of acceptance of this writ petition.

In the light of these observations, the representation earlier submitted by the petitioner shall be considered and disposed off expeditiously within a period of fifteen days from the date of receipt of copy of this order. Copy of this order be also sent to Director General of prisons.

(FATEH DEEP SINGH)
JUDGE

May 27, 2015
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