

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No.1061 of 2015 (O&M)
Date of decision: December 24, 2015

Anil Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Robin Dutt, Advocate
for the petitioner.

Mr.Anmol Malik, Asstt. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this criminal writ petition under Article 226 of the Constitution of India read with Section 482 Cr.P.C. read with Section 3(1) (a) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 for grant of parole for a period of 30 days on account of treatment of his ailing mother.

It is stated in the petition that the petitioner has been convicted and sentenced by learned Addl. Sessions Judge, Yamuna Nagar at Jagadhri to undergo rigorous imprisonment for a period of two years under Section 498-A IPC and to undergo rigorous imprisonment for a period of five years under Section 306 IPC along with fine. Both the sentences were ordered to run concurrently. It is

further stated that against the judgment of conviction and order of sentence, the petitioner filed an appeal before this Court, which was dismissed vide judgment dated 20.03.2009 and judgment of conviction was upheld. It is also stated that against the judgment dated 20.03.2009 passed by this Court, the petitioner filed Crl. Appeal No.1762 of 2009 before the Hon'ble Apex Court and said appeal has also been dismissed vide judgment dated 12.03.2015 by the Hon'ble Apex Court and it is ordered that petitioner be taken into custody for serving the remaining sentence.

It is stated in the petition that petitioner approached to the Superintendent District Jail, Yamuna Nagar by way of representation for granting parole for 30 days as his mother requires his assistance for her medical treatment as she is suffering from various ailments and is undergoing treatment from Sachdeva Hospital, Jagadhri and is unable to move without the help of attendant. The representation of the petitioner was dismissed by the Superintendent, District Jail, Yamuna Nagar on the flimsy grounds vide order dated 18.06.2015 (Annexure P-2).

Notice of motion was issued and learned State counsel appeared and contested the petition and also filed the reply.

In the reply, it is submitted that parole is only a concession and it cannot be claimed as a matter of right. It is further stated that the petitioner has never submitted any medical record of his mother. The medical record attached as Annexure P-1 with the petition, bear dates for the year 2012 to 2014. There is nothing worth in the record

mentioning the seriousness of the illness/disease of the mother of the petitioner.

After hearing learned counsel for the petitioner as well as learned State counsel and after going through the record, I find that the medical record of Sachdeva Hospital, Jagadhri has been placed on record, which is from the year 2011 to 2014. The present criminal writ petition is dated 15.07.2015. There is no medical record of the year 2015 and further in the petition, there is not even any mention of the disease from which the mother of the petitioner is suffering. It is simply written that she is suffering from various ailments. Nothing is there whether there is any urgency for giving medical treatment etc. Further, it is clear from the reply that appeal filed by the petitioner before the Hon'ble Apex Court was dismissed on 12.03.2015 and the present petitioner has been admitted in the jail on 17.05.2015. Immediately, after admission in the jail, on the dismissal of the appeal, the application was given for parole, which was dismissed vide order dated 18.06.2015 (Annexure P-2).

It is **not** necessary that prisoner shall be entitled to apply for parole only after he has completed one year of his imprisonment after conviction as provided in Haryana Good Conduct Prisoners' (Temporary Release) act, 2007 Rule 4(1). It is held by this Court in ***Mahavir vs. State of Haryana and others, 2012(4) RCR (Criminal) 230***, that Rules cannot overwrite the provisions of the Act. It is so held by this Court in ***Ranjit Singh vs. State of Punjab and others, 2011(1) RCR (Criminal) 388***. It is also held in the judgment passed

by Hon'ble Division Bench of this Court in CRWP No.187 of 2015 decided on 11.02.2015 that Rule of one year imprisonment cannot overwrite the provisions of the Act, wherein in the Act, there is no such restriction.

From the record, I find that no disease has been disclosed, even in the petition, from which the mother of the petitioner is suffering. No medical record has been placed on the record showing any treatment given to the mother of the petitioner in the year 2015. The petitioner has been admitted in the jail on 17.05.2015 after dismissal of his appeal by the Hon'ble Apex Court and immediately he applied for parole and his application was declined on 18.06.2015 i.e. within about one month of his admission in the jail.

Keeping in view the above facts and circumstances of the present case, I do not find any merit in the present petition and the same is hereby dismissed.

December 24, 2015
Vgulati

(INDERJIT SINGH)
JUDGE