

In the High Court of Punjab and Haryana at Chandigarh

CRWP No. 1329 of 2015

Date of Decision: 16.9.2015

Jasbir Singh

---Petitioner

versus

State of Haryana and others

---Respondents

**Coram: Hon'ble Mr. Justice S.S.Saron
Hon'ble Mrs. Justice Rekha Mittal**

**Present: Mr. Randeep S.Dhull, Advocate
for the petitioner**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

S.S.Saron, J.

Heard learned counsel for the petitioner.

The criminal writ petition has been filed under Articles 226/227 of the Constitution of India read with Section 3 (1) (d) of the Haryana Good Conduct Prisoners Temporary Release Act, 1988 ("the Act" - for short) seeking a writ for quashing the order dated 20.5.2015 (Annexure P-1) passed by the Nodal Officer, District Magistrate, Ambala whereby temporary release of the petitioner on parole for house repair has been declined.

The petitioner has been convicted in case FIR No. 215 dated 23.6.2013 registered at Police Station Shahabad, District Kurukshetra for the offence punishable under Section 302 read with Sections 34 and 109 of the Indian Penal Code ("IPC"- for short). He has been sentenced to undergo life imprisonment. Against the said conviction and sentence, the petitioner

has filed Criminal Appeal No. D-658-DB of 2014, which is pending in this Court. During incarceration of the petitioner, he submitted an application dated 13.4.2015 to the Superintendent, District Jail, Kurukshetra (Respondent No. 5) for his release on parole for house repair and for restoring social ties. The Superintendent, District Jail, Kurukshetra (Respondent No. 5) forwarded the application to the District Magistrate, Ambala (Respondent No. 4) on 13.4.2015.

The District Magistrate, Ambala sought a report from the Tehsildar, Ambala. The latter reported that the house for which the petitioner sought parole was not owned by him and it was in the name of his father. The District Magistrate, Ambala (Respondent No. 4), on the basis of the said report of the Tehsildar, Ambala has rejected the parole case of the petitioner vide impugned order dated 12/20.5.2015 (Annexure P-1). Aggrieved against the same, the petitioner has filed the present petition.

Learned counsel for the petitioner submits that the house which the petitioner is to repair is within the area of 'lal dora' of the village. Father of the petitioner is an old man and there is no other male member in the family who could repair the house. Winter season is ahead and the Tehsildar, Ambala had verified the fact that the said house is in poor condition. Reference has been made to the application (Annexure P-2) and certificate (Annexure P-3) given by the Gram Panchayat of village Konkpur, Police Station Sadar Ambala, District Ambala. According to the certificate (Annexure P-3) of the Gram Panchayat of village Konkpur, the house is in a very poor condition and repair of the same is necessary.

We have given our thoughtful consideration to the entire matter.

The temporary release on parole sought for by the petitioner for house has been declined to him on the ground that the house of which repairs are to be done is not owned by him.

Section 3 of the Act provides for temporary release of prisoners on certain grounds. Section 3 (1) (d) which is relevant for the present petition, reads as under:-

“3(1) The State Government may, in consultation with the District Magistrate or any other officer appointed in this behalf, by notification in the Official Gazette and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2), any prisoner, if the State Government is satisfied that -

(a) xxx xxx xxx

(b) xxx xxx xxx

(c) xxx xxx xxx

(d) it is desirable so to do for any other sufficient cause.”

A perusal of the above shows that a person can be released on parole on temporary basis if the State Government is satisfied that it is desirable to do so for any sufficient cause. “Sufficient cause” has been spelt out in Rule 8 of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 (“2007 Rules”-for short). Rule 8 (iii) of the 2007 Rules reads as under:-

“8. **Sufficient Cause.**[sections 3 (1) (d) and 10 (2) (d)].- Under section 3 (1) (d) “sufficient cause” may be considered from amongst the following reasons, namely:-

XXX

XXX

XXX.”

16.9.2015
PARAMJIT