

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Writ Petition No.1352 of 2015

Date of Decision : September 16, 2015

Mohar Singh

.....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE GURMIT RAM

Present : Mr. V.S. Rana, Advocate
for the petitioner.

T.P.S. MANN, J.

Petitioner-Mohar Singh, who stands convicted in case FIR No.42 dated 16.2.2013 under Sections 363/366/376-D/120-B IPC registered at Police Station Bhattu Kalan, District Fatehabad and undergoing imprisonment for twenty years, has filed the present petition under Article 226 of the Constitution of India praying therein for setting aside the order dated 21.8.2015 (Annexure P-2) passed by the Superintendent, Central Jail-I, Hisar vide which application submitted by him for his release on parole so as to enable him to undertake repairs of his house stands rejected.

While rejecting the application submitted by the petitioner

for his release on parole, the Jail Superintendent observed that as the petitioner stands convicted under Section 376-D IPC, his case fell in the category of 'hardcore prisoner' in view of Section 2(aa)(i)(7) of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2013 and such a hardcore prisoner could not be released on parole in view of the provisions of Section 5-A of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2014.

It is not in dispute that the petitioner stands convicted on 28.1.2014 for various offences, including the one under Section 376-D IPC and sentenced to undergo imprisonment for twenty years. Merely because the petitioner has completed one year of his imprisonment after conviction and has earned his first annual good conduct remission and, thus, entitled to apply for parole under the provisions of Rule 4 of the Haryana Good Conduct Prisoners (Temporary Release) Rule, 2007, will not entitle him to seek release on parole in view of the provisions of Section 2(aa)(i)(7) of Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2013 as per which the petitioner has to be treated as a hardcore prisoner in view of his conviction under Section 376-D IPC and Section 5-A of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2014 bars release of a hardcore prisoner on parole or furlough. The plea of

the petitioner that the aforementioned amendment Acts of 2013 and 2014 had not come on the statute book on 16.2.2013, when the petitioner had allegedly committed the offence, cannot be entertained as the amendment Acts of 2013 and 2014 only impose restriction on release of a convict on parole or furlough but did not create any substantive offence.

In view of the above, no fault can be found with the impugned order passed by the Superintendent, Central Jail-1, Hisar whereby application filed by the petitioner for his release on parole was rejected.

The petition is without any merit and, therefore, dismissed.

**(T.P.S. MANN)
JUDGE**

**(GURMIT RAM)
JUDGE**

September 16, 2015
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