

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

CRWP No. 548 of 2015

Date of decision:- May 14, 2015

Ram Juwari

....Petitioner...

VS.

State of Haryana and another

....Respondents...

CORAM:- HON'BLE MR. JUSTICE JASPAL SINGH

Present:- Mr. Vivek Goel, Advocate,
for the petitioner.

Mr. Vikas Chopra, DAG, Haryana.

JASPAL SINGH, J.

The present petition has been preferred under Articles 226/227 of the Constitution of India by Ram Juwari seeking grant of six weeks parole for agricultural purpose.

2. The contention of learned counsel for the petitioner is that petitioner and his co-accused were convicted and sentenced by the Id. Additional Sessions Judge, Jind vide judgment dated September 07, 2011 to undergo rigorous imprisonment for a period of 10 years in case FIR No. 173, dated September 28, 2008, under Sections 366, 376-G, 342 and 506 IPC, registered at Police Station Pillukhera, District Jind. Petitioner is the owner of agricultural land and he intends to cultivate the same. In this regard, he has referred copy of

jamabandi for the year 2010-2011. Learned counsel for the petitioner has submitted that there is no other person in the family of the petitioner to cultivate his land as he has only one minor son whereas his other brothers are living separately. Earlier, an application moved by the petitioner for grant of parole for agricultural purpose has already been rejected by the Superintendent Jail, Yamuna Nagar vide order dated March 31, 2015 (Annexure P-3), simply on the ground that petitioner is a hard-core prisoner. Learned counsel for the petitioner further contends that rejection of parole by Superintendent Jail is absolutely against the principles governing the grant of parole. Moreover, petitioner is in custody and has already undergone more than 4½ years of actual sentence out of total sentence of rigorous imprisonment for 10 years. Earlier also, petitioner was granted parole in CRM No. 67570 of 2012 in CRA-S-2353-SB-2011 enabling him to attend the marriage of his nephew. The concession of bail, so granted, by this Court, was never misused by him. Rejection of application is absolutely against the settled canons of law and as such impugned order dated March 31, 2015 passed by Superintendent Jail, Yamuna Nagar is liable to be set aside.

3. On the other hand, learned State counsel has supported impugned order dated March 31, 2015 submitting that same is absolutely inconsonance with the legal proposition. In fact, petitioner has been declined concession of parole as he falls under the

hardcore category, as per the Haryana Good Conduct Prisoners' (Temporary Release) Amendment Act, 2013 (for short, 'the Act'), which also defines a hard-core prisoner. Since, petitioner has been convicted with the charge of rape with a woman below 16 years of age, he is not entitled to parole. Learned State counsel accordingly, prayed for dismissal of the petition.

4. Having elaborately heard learned counsel for the parties and scanning the relevant provisions of law, this Court is of the considered view that petitioner is not entitled to parole. Section 2(aa) (6) of the Act defines, that a 'hardcore prisoner' means 'a prisoner', who has been convicted with the charge of rape with a woman below 16 years of age.

5. Adverting to the facts and circumstances of this case, age of prosecutrix in this case was approximately 13 years. Thus, petitioner in the instant case being a hardcore prisoner is not entitled to the concession of parole. Though, there are specific provisions for temporary release of hardcore prisoner in the Haryana Good Conduct Prisoners' (Temporary Release) Amendment Act, 2014 enshrined in Section 5A of the said Act but the case of petitioner also does not fall within any of those exceptions.

7. Thus, this Court is of the considered view that instant petition being devoid of any merit deserves to be dismissed.

8. Ordered accordingly.

May 14, 2015

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(JASPAL SINGH)
JUDGE