

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

**Criminal Writ Petition 600 of 2015
Date of Decision: August 24, 2015**

Deepak

.....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. P.S.Rai, Advocate
for the petitioner.

Mr. Praveen Bhadu, Asstt. A.G. Haryana.

T.P.S.MANN, J.

The petitioner has filed the present petition under Articles 226/227 of the Constitution of India read with Section 482 of the Criminal Procedure Code praying therein for issuance of directions to the respondents to release him on parole for a period of four weeks under Section 3 (1) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, (hereinafter to be referred as 'the 1988 Act'), for the purposes of house repair.

The petitioner stands convicted in FIR No. 398 dated 5.9.2012 under Sections 363/366A/376(2)(g)/34 IPC, Police

Station City, Fatehabad and sentenced to undergo life imprisonment. Since the date of his arrest, i.e. 8.9.2012, he is behind the bars. The petitioner claims that since his arrest, his conduct inside the jail has remained satisfactory. He has not committed any offence pertaining to jail discipline while remaining inside the jail. His mother applied to the jail authorities for releasing him on parole for a period of four weeks under Section 3 (1) of the 1988 Act, so as to enable him to undertake repairs of his house. The said application was forwarded by the jail authorities to the local police but as the police gave adverse report, the jail authorities declined to release the petitioner on parole by observing that there was an apprehension of breach of public peace in the locality if the petitioner was released on parole for house repair. The petitioner has asserted that his father is an aged person and too weak to perform domestic work. The Municipal Councillor of Ward No. 4, Fatehabad, has verified the condition of the house of the petitioner to be dilapidated which needed immediate repairs. Copy of the recommendation of the Municipal Councillor stands appended with the petition as Annexure P-1. Prayer has, accordingly, been made for issuing directions to the respondents to release the petitioner on parole for a period of four weeks.

Reply on behalf of the respondents has been filed by

the Superintendent, Central Jail-I, Hisar, wherein, it is submitted that as the petitioner stands convicted for committing rape with a girl, who was under the age of sixteen years, his case comes under the purview of hard-core prisoner as described under the provisions of Section 6 of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2013. It is also submitted that a Division Bench of this Court has already held in **Criminal Writ Petition 2104 of 2012, Ajay Jadeja @ Janak Vs. State of Haryana and others** that the Amendment Acts of 2012 and 2013 would operate retrospectively and no concession of temporary release could be granted merely because he was convicted prior to the amendment of the Act. On merits, it has been stated that the parole case of the petitioner has never been initiated and no kind of police report regarding parole case of the convict has been received. Prayer has, accordingly, been made for dismissing the writ petition.

On a query put by the Court, learned counsel for the petitioner has submitted that apart from his father, who is old and too weak to perform domestic work, the petitioner does not have any one, who could carry out the necessary house repairs. In her application (Annexure-P1), the mother of the petitioner did not state that she had one more son apart from the petitioner. She only stated that there was no other person excepting the

petitioner in her family who could repair the house. Similar is the position with the certificate issued by the Municipal Councillor of Ward No. 4, Fatehabad, when he stated that there was none in the family of the petitioner, who could carry out the repairs of the house. However, on perusal of the judgment of conviction and sentence passed by the trial Court against which the petitioner has filed Criminal Appeal D-326-DB of 2013, it has been specifically stated therein that the petitioner has a brother, namely, Krishan.

Since the petitioner stands convicted for committing rape upon a girl below sixteen years of age, he is to be treated as a hard-core prisoner under Section 2 of the Amendment Act of 2012. Under these circumstances, Section 5 A of the Amendment Act of 2014 dis-entitles him to be released on parole.

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

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

August 24, 2015
amit rana

**(GURMIT RAM)
JUDGE**