

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

Crl. Writ Petition 709 of 2015
Date of Decision : July 14, 2015

Vijay Singh

.....Petitioner

VERSUS

State of Haryana and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN**

Present : Mr. S.S.Duhan, Advocate

Mr. Vijesh Sharma, Deputy A.G., Haryana

T.P.S. MANN, J.

Petitioner-Vijay Singh, who stands convicted in FIR No. 5 dated 4.1.2013 registered at Police Station Sadar, Jind, for offences under Sections 120-B, 302 and 307 IPC and sentenced to undergo life imprisonment, has filed the present petition under Article 226 of the Constitution of India read with Section 3(1)(d) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (in short "the 1988 Act") praying therein that order dated 10.4.2015 (Annexure P-3) passed by respondent No.2-Superintendent, District Jail, Jind be set aside and directions be issued to the respondents to release him on emergency parole for a period of four weeks so as to enable him to get his minor children admitted in the school.

Vide impugned order, the Jail Superintendent declined to initiate the case of the petitioner for release on parole for four weeks for the admission of his children on the ground that he had

not completed a period of one year as a convict and also not earned his first annual good conduct remission.

According to the petitioner, his two sons, namely, Preetraj and Abhar, who had passed class VI and III examinations respectively, were to be admitted in the next higher classes in the Jagriti Senior Secondary School, Kinana (Jind). In this regard, he has placed on record certificate dated 6.4.2015 (Annexure P-1) issued by the Principal of the aforementioned school. The petitioner has also pleaded that the Gram Panchayat of his village Bura-Dehar has also made report (Annexure P-2) in his favour by strongly recommending his release on parole as the wife of the petitioner has already left the children and herself residing at her parental house. The Gram Panchayat has also reported that there would be no disturbance to peace in the event of the petitioner coming to the village.

Upon notice, reply on behalf of the respondents has been filed by the Jail Superintendent wherein it is submitted that Section 4(1) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 (in short "the 2007 Rules") and the 1988 Act do not allow the petitioner to be released on parole before completing a period of one year in jail as a convict besides earning first annual good conduct remission. It has also been stated that the children of the petitioner are already studying in the aforementioned school as per the school certificate and also so mentioned by the Panchayat in its report.

We have heard learned counsel for the parties and perused the pleadings.

According to the petitioner, though his children already stands admitted in the Jagriti Senior Secondary School, Kinana (Jind) yet he is required to arrange money for their tuition fee and other expenses like school uniforms, transportation, books, stationery etc. The wife of the petitioner has already left for her parental house and under these circumstances it is the petitioner, who alone can arrange funds for the aforementioned purposes after coming out on parole.

The plea taken by the respondents in opposing the release of the petitioner on parole that he had not completed one year of his imprisonment after conviction and has also not earned his first annual good conduct remission cannot be accepted as the so called restriction has been imposed by 2007 Rules which were published in the Haryana Government Gazette (Extra) Legislative Supplement Part III dated 18.12.2007. No such restriction had been imposed in the 1988 Act and in such a situation the rules cannot supersede the substantive provision of the 1988 Act. Reliance in this regard can be placed upon the judgment of a Division Bench of this Court in **Deepak Vs. State of Haryana and another, 2014(4) RCR (Criminal), 531** where it was observed as under:-

“5. We have given our thoughtful consideration to the matter. It may be noticed that in terms of Section 3(1)(a) of the Act, a prisoner is entitled for parole if a member of the prisoner's family has died

or is seriously ill or the prisoner himself is seriously ill. The restriction of one year of imprisonment after conviction to be eligible for temporary release has been imposed by way of Rule 4 of the Haryana Good Conduct Prisoners (Temporary Release) Rule, 2007 (for short 'the Rules') which was published in the Haryana Government Gazette (Extra) Legislative Supplement Part III dated 18.12.2007. There being no such restriction in the Act, the Rules cannot supersede the substantive provision of the Act.”

Though the petitioner had prayed for his release on parole for a period of four weeks for the aforestated purpose yet during the hearing of the present petition, he has limited his prayer to only three days.

Resultantly, the petition is allowed. The petitioner be released on parole for a period of three days, to be counted from the date of his actual release subject to his furnishing appropriate bonds to the satisfaction of the District Magistrate, Jind.

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

July 14, 2015
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**(MAHAVIR S. CHAUHAN)
JUDGE**