

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No.757 of 2015
Date of decision: 06.07.2015

Jagat Singh

.....Petitioner

versus

State of Haryana and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE S.S. SARON
HON'BLE MR.JUSTICE RAMENDRA JAIN

Present: Mr.Vishal Nehra, Advocate for the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana for the State.

S.S. SARON, J.

Learned counsel for the State has filed reply by way of affidavit of Shri Atma Ram Bishnoi, Superintendent, Central Jail, Ambala on behalf of the respondents. The same is taken on record.

Heard learned counsel for the parties.

The criminal writ petition has been filed by the petitioner seeking appropriate direction to the respondents to release him on four weeks parole to meet his family and for agriculture purposes.

The petitioner is undergoing life imprisonment in case FIR No.290 dated 14.10.2008 registered at Police Station, Ambala City for the offences under Sections 365, 302 and 201 of the Indian Penal Code; besides, Section 25 of the Arms Act. He was convicted and sentenced by the learned trial Court in the said case. Criminal Appeal No.D-185-DB of 2011 against his conviction and sentence is pending. During incarceration of the petitioner, he applied for agriculture parole. However, no action has been taken.

In terms of the reply that has been filed in Court today, it

is submitted that the petitioner applied for parole for agriculture work which was forwarded to the Divisional Commissioner, Ambala (Parole Sanctioning Authority) and District Magistrate, Hardoi (U.P.) for verification and recommendation vide letter dated 04.02.2015. The District Magistrate, Hardoi (U.P.) on 02.06.2015 inter alia stated that the petitioner had committed a heinous crime like murder and he would threaten his opposite parties if he is released on parole. Besides, the local police did not recommend parole to the petitioner as per report received from the Superintendent of Police, Hardoi (U.P.). The report of the District Magistrate is attached as Annexure R-1 with the reply. It was also submitted that the Divisional Commissioner, Ambala Division, Ambala Cantt. (Parole Sanctioning Authority) has again written to the District Magistrate, Hardoi (U.P.) for reviewing the matter of the petitioner as he has not recommended the parole case of the petitioner on the basis of the report. The said recommendation is pending.

We have given our thoughtful consideration to the matter. As already noticed that the petitioner has been convicted in case FIR No.290 dated 14.10.2008 for the offences under Sections 365, 302 and 201 IPC; besides, Section 25 of the Arms Act. He is at present undergoing his life imprisonment.

Learned counsel for the State has submitted that the petitioner has availed parole on four occasions earlier and surrendered in jail in time without any complaint. The parole now for the petitioner is under consideration as the District Magistrate has not recommended the case for grant of parole primarily on the ground that he has committed a heinous crime like murder and he

would threaten his opposite parties if he is released on parole. It is, however, accepted that the convict petitioner had earlier availed parole on four occasions and he surrendered in jail in time without any complaint. This is in fact specifically mentioned in the report (Anenxure R-1) of the District Magistrate, Hardoi (U.P.).

Section 6 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 ('Act'- for short) provides for conditions where a prisoners may be dis-entitled to parole.

Section 6 of the Act reads as under:-

"Prisoners not entitled to be released in certain cases:- (1) Notwithstanding anything contained in Sections 3 and 4, no prisoner shall be entitled to be released under this Act if, on the report of the District Magistrate, the State Government or an officer authorized by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order or cause reasonable apprehension of breach of peace.

(2) The District Magistrate, the State Government or the officer authorized to release the prisoner as provided in Sections 3 and 4 of the Act shall take report from the police within a specified time frame.

(3) In case of non-recommendation for release by the Police, the release granting authority shall pass a speaking order, if he disagrees with the

report submitted to him.”

A perusal of the above Section shows that a prisoner would be entitled to be released on parole if, on the report of the District Magistrate, the State Government or an officer authorized by it in this behalf is satisfied that his release is likely to endanger the security of the State or the maintenance of public order or cause reasonable apprehension of breach of peace. The report (Annexure R-1) of the District Magistrate, Hardoi (U.P.) merely mentions that the petitioner has committed heinous crimes like murder and he would threaten the opposite parties if he is released on parole but it is not the case of the respondents that his release is likely to endanger the security of the State or the maintenance of public order or cause reasonable apprehension of breach of peace. Therefore, the said report (Annexure R-1) is not liable to come in the way of the petitioner for being released on parole in accordance with law. This is moreso for the reason that he has availed parole on four earlier occasions and surrendered in jail in time without any complaint.

In the circumstances, the criminal writ petition is allowed and the petitioner on his furnishing necessary bond and surety to the satisfaction of the learned District Magistrate, Ambala shall be released on four weeks' parole.

(S.S. SARON)
JUDGE

(RAMENDRA JAIN)
JUDGE

06.07.2015

A. Kaundal