

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

Criminal Revision 922 of 2008

Date of Decision : November 3, 2016

Suraj Bhan		Petitioner
	Versus	
The State of Haryana		 Respondent

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

Present : Mr. Gautam Dutt, Advocate
for the petitioner.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

T.P.S.MANN, J. (Oral)

The petitioner was tried for committing offence under Sections 8/9 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (hereinafter referred to as 'the Act') on the allegations that he overstayed parole by about two years. Vide judgment and order dated 7.8.2006, learned Presiding Officer, Special Environment Court, Faridabad convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/- and in default of payment of fine, to further undergo imprisonment for two months. The period during which he had remained in custody in the case was ordered to be set off against the period of imprisonment imposed upon him.

Aggrieved of his conviction and sentence, the petitioner preferred an appeal but remained unsuccessful as it

came to be dismissed by the learned Additional Sessions Judge (Fast Track Court) Faridabad vide judgment dated 10.5.2008. Still not satisfied, he filed the present revision, which came to be admitted on 3.10.2008. At the same time, his sentence was also suspended subject to his furnishing requisite bonds to the satisfaction of the Chief Judicial Magistrate, Gurgaon.

According to the prosecution, the petitioner was released on parole vide order No. 341 dated 8.8.2002 with the direction that he should surrender on 20.9.2002. However, he did not surrender before the jail authority in time and, ultimately, on 4.4.2004, he surrendered and was taken into custody.

Learned counsel for the petitioner does not challenge the conviction of the petitioner as recorded by the learned trial Court and upheld by the lower appellate Court. He has, however, submitted that the petitioner is facing the agony of criminal prosecution for the last more than thirteen years. He is a poor person and sole bread winner of his family, which includes his old and aged mother. It is also submitted that out of the sentence of two years imposed upon him, he has already undergone a period of more than one year. Prayer has, accordingly, been made for setting aside his remaining substantive sentence.

Learned State counsel has vehemently opposed the prayer by submitting that the petitioner does not deserve any leniency in the

matter of sentence of imprisonment as he misused the concession of parole by not surrendering before the jail authority within the prescribed period of time, rather he overstayed parole by about two years.

As per the custody certificate dated 23.9.2016, already brought on record by the learned State counsel, the petitioner had undergone total sentence of one year and nineteen days before he was released on bail.

Section 9 of the Act provides punishment to any prisoner who is liable to be arrested under sub-section 2 of Section 8 of the Act. The law requires imposition of sentence, which may extend to three years and with fine. This was the position upto passing of Haryana Act No. 20 of 2012, which required imposition of sentence of imprisonment upto three years but shall not be less than two years. As the petitioner had committed the offence before coming into force of Haryana Act No. 20 of 2012, he can be sentenced to undergo imprisonment, which may extend to three years and also to pay fine. There is no requirement of imposing imprisonment for at least two years.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioner behind the bars, once again, for undergoing his remaining substantive sentence of imprisonment. Ends of justice shall

be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine amount can be enhanced.

Resultantly, the conviction of the petitioner for the offence under Sections 8/9 of the Haryana Good Conduct Prisoners (Temporary Release) Act 1988 is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him whereas the fine is enhanced from Rs.2,000/- to Rs.10,000/-. As is clear from the custody certificate that the petitioner has not paid the amount of fine so far, he is directed to appear before the learned trial Court within three months from today and deposit the entire amount of fine or else he shall undergo imprisonment for a period of nine months.

The revision is, accordingly, disposed of.

November 3, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No