

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

**CRWP No. 1493 of 2015
Date of decision: 02.12.2016**

Daya Kishan alias Tahli

...Petitioner

Versus

State of Haryana & Another

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Varinder Singh Rana, Advocate
for the petitioner.

Mr. Sharad Kumar Yadav, DAG, Haryana.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed for setting aside the order dated 28.09.2015 (Annexure P-5) passed by respondent No. 2 wherein the parole application of the petitioner was rejected on the ground that he was convicted under Section 366-A IPC and since he falls under the category of Hardcore Prisoner as per provisions of Section 2 (aa)(i)(12) of the Haryana Good Conduct Prisoner (Temporary Release) amended Act in 2013 (*for short 'the Act'*), he can not be granted parole before completion of five years as convict.

Counsel for the petitioner contends that the parole has wrongly been denied to the petitioner and he is entitled to the same. Reliance is placed upon a judgment of this Court rendered in ***Yogender vs. State of Haryana & Others*** bearing ***CRWP No. 715 of 2014***, decided on 08.07.2014, wherein a similarly situated person had been granted parole after the amendment of the Act. It is argued that in the instant case, the petitioner had been allowed to go on parole in the year 2015 and he had not misused the same i.e. after the Act

had been amended and by claiming parity with the petitioner in Yogender's case (supra), the peresent petitioner should also be granted parole.

Counsel for the respondent-State was given time to verify whether the house does require repair and reply has been filed confirming that the house of the petitioner is in disarray and needs repair.

I have heard learned counsel for the parties and after hearing the arguments raised, the impugned order dated 28.09.2015 (Annexure P-5), declining the parole to the petitioner, is set aside and the matter is remanded back for a fresh decision to be taken. In case the petitioner is found on the same footing as the petitioner in Yogender's case (supra), the authorities concerned may consider granting him parole as prayed for. Needful be done within a period of two weeks from the date of receipt of certified copy of this order.

Petition stands disposed of.

December 02, 2016

Ansari

**(JAISHREE THAKUR)
JUDGE**

Whether speaking/reasoned

Yes

Whether reportable

No