

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No.350 of 2015 (O&M)
Date of decision: January 06, 2016

Mohit

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.V.S.Rana, Advocate
for the petitioner.

Mr.Himmat Singh, Asstt. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this criminal writ petition under Article 226 of the Constitution of India for setting aside the order dated 10.01.2015, whereby application of the petitioner for grant of parole for house repair, was rejected illegally and without considering the fact that the petitioner remained on bail from 02.02.2008 to 03.12.2008, 13.09.2012 to 08.06.2014 and thereafter he availed parole for 4 weeks and there is nothing on the record to show that petitioner ever misused the parole. It is also stated that amendment made in the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2013, is at all not applicable in the case of the petitioner.

Notice of motion was issued and learned State counsel appeared and contested the petition and also filed the reply.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

As per Annexure P-1, the application moved by the petitioner for parole for the purpose of house repair has been dismissed only on the ground that during the search on 21.06.2011, a mobile phone and SIM card were recovered from the said convict and he was punished for deduction of 30 days of earned remissions by the Superintendent Jail and the same was judicially apprised by the District and Sessions Judge, Sirsa. It is also stated in Annexure P-1 that convict comes in the definition of hardcore prisoner, which means, who has been detected of using cell phone or in possession of cell phone/SIM card inside the jail premises. Section 5A has been added in the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2013, according to which, hardcore prisoner shall not be released on temporary basis or on furlough and on this ground, the application was dismissed.

Learned counsel for the petitioner cited judgment passed by Hon'ble Division Bench of this Court in case **CRWP No.1078 of 2014 decided on 09.02.2015**. I have gone through the above-cited judgment and it fully applies to the facts of the present case as in that case also, a mobile was recovered from the convict before the amendment in the Rules and regarding which the punishment was given for jail offence. This Court held that Rules are to be applied

prospectively. The parole cannot be denied on the basis of these Rules which came in force afterwards.

Keeping in view the decision of the Hon'ble Division Bench of this Court, on this ground that jail offence has been committed before amendment of Rules, parole cannot be declined. The order dated 10.01.2015 (Annexure P-1) is not as per law and the same is set aside.

Therefore, finding merit in the present criminal writ petition, the same is allowed. The respondents are directed to re-consider the matter expeditiously as per law.

January 06, 2016
Vgulati

(INDERJIT SINGH)
JUDGE