

CRWP No. 1035 of 2016

DECIDED ON: SEPTEMBER 14, 2016

KEWAL KRISHAN

.....PETITIONER

VERSUS

STATE OF HARYANA & ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. H.S. Jaswal, Advocate
for the petitioner.

Ms. Neelam Kashyap, DAG, Haryana.

JASPAL SINGH, J (ORAL)

Challenge in this petition is to the order dated July 29, 2016 (Annexure P-4) passed by respondent No.2-Superintendent, District Jail, Kurukshetra whereby, claim of the petitioner was rejected only on the ground that he has not completed one year of his sentence after conviction as well as that he has not earned first Annual Good Conduct Remission under Rule 4(1) of the Haryana Good Conduct Prisons (Temporary Release) Rule, 2007 (for short 'the Rules').

A perusal of impugned order dated July 29, 2016 (Annexure P-4) makes it crystal clear that the only ground for rejection is that the petitioner has

not completed one year sentence after imprisonment and has not availed first Annual Good Conduction Remission, as required under Rule 4(1) of the Rules, 2007.

At the very outset, it would be pertinent to mention that no such restriction was imposed under the Haryana Good Conduct Prisoner's (Temporary Release) Act, 1988 (for short 'the Act of 1988'), as has been imposed under the Rules, 2007.

In such a situation, it can be safely concluded that Rules cannot supersede the substantive provisions of the Act of 1988. Earlier, such a question came up for hearing before this Court in the case of **Deepak v. State of Haryana & another; 2014 (4) RCR (Criminal) 531.**

Similarly, the matter also came for disposal before this Court in CRWP No. 624 of 2016 titled **Paras Sharma vs. State of Haryana & others;** decided on May 11, 2016. Petitioner was allowed and the petitioner was ordered to be released on parole for a specific period.

Identical question also came for hearing before a co-ordinate Bench in CRWP No. 600 of 2016 titled **Jagtar Singh vs. State of Haryana & another;** decided on July 27, 2016 in which also similar observation was made.

Taking in to consideration the afore-said discussions and the relevant law, this Court is of the considered view that impugned order July 29, 2016 (Annexure P-4) is absolutely against the Rule and settled cannons of law and deserves to be set aside.

Consequently, instant petition is allowed. The petitioner is ordered to be released on parole for a period of three weeks, to be counted from the date of his actual release subject to his furnishing appropriate bonds to the

satisfaction of the District Magistrate, Kurukshetra.

SEPTEMBER 14, 2016
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(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No