

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

CRWP-102-2016 (O&M)
Date of decision: 20.05.2016

Subhash @ Bhashi

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Ram Niwas Kush, Advocate for the petitioner
Ms.Supriya Arora, Asstt. A.G. Haryana

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

It comes out that the petitioner was undergoing life imprisonment in a murder case. Subsequently, he committed another offence punishable under Section 307 IPC, for which he was convicted and sentenced imprisonment for life by the lower Court. This Court reduced the said sentence to 12 years Rigorous Imprisonment, which was directed to run concurrently with the earlier sentence of life imprisonment. However, with a rider that the benefit of remission or commutation given in the earlier sentence alone will not ipso facto be available to the present case.

I have heard learned counsel for the parties and have also carefully gone through the file.

The condition imposed by this Court would show that for the purpose of undergoing 12 years, the benefit of remission or

commutation which has been availed off by the petitioner in the life imprisonment will not be available to him in case under Section 307 IPC.

The short prayer of the learned counsel for the petitioner is that the period of parole should be straightway deducted from the total sentence of 12 years.

However, the stand of learned State counsel is that the parole period is first added in the sentence and then deducted. Learned State counsel has referred to Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (Haryana Act No.28 of 1988). Sub-section 3 of Section 3 aforesaid Act provides that the period of release under this section shall not count towards total period of sentence of a prisoner. That would mean that the period of parole is not to be deducted from the total sentence. Thereby indirectly granting the remission in the sentence.

Learned counsel for the petitioner has referred to the authority of Hon'ble Supreme Court in Dadu @ Tulsidas vs. State of Maharashtra, 2000(4) RCR (Criminal) 275.

Perusal of the aforesaid authority shows that it relates to constitutional validity of Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act'). Therein the meaning of parole was defined and it was held that parole cannot be withheld under the garb of Section 22 of the NDPS Act. However, the present Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 were not either discussed or struck down in the said judgment. In that case, the Maharashtra Rules were under

consideration. Therefore, this Court is unable to accept the prayer of learned counsel for the petitioner.

Resultantly, the present petition stands dismissed.

20.05.2016
gk

(Kuldip Singh)
Judge