

CRWP No.1164 of 2016

[1]

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

Sr. No. 116

CRWP No.1164 of 2016

Date of decision: September 01, 2016

Harnek Singh

.... Petitioner

Versus

State of Haryana & others

.... Respondents

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Amandeep Singh Cheema, Advocate,
for the petitioner.

JASPAL SINGH, J.

This is a Criminal Writ Petition under Article 226 of the Constitution of India preferred by petitioner-Harnek Singh for quashing impugned order dated August 20, 2016 (Annexure P-5) passed by Superintendent, District Jail, Yamuna Nagar as well as for issuance of direction to the respondents to release the petitioner on temporary parole for a period of three weeks in terms of Section 3 of The Haryana Good Conduct Prisoners (Temporary Release) Act, 1988.

2. Earlier also the petitioner has moved a Criminal Writ Petition No.1079 of 2016 which was disposed of by this court vide judgment dated August 12, 2016 with a direction to Superintendent, District Jail, Yamuna

CRWP No.1164 of 2016

[2]

Nagar to look into his application dated July 28, 2016 and to take appropriate action in accordance with law within a period of one month from the date of receipt of copy of this order. In compliance thereof, the application of the petitioner for grant of parole has been declined by the Superintendent, District Jail, Yamuna Nagar by passing a speaking order which has been challenged by the petitioner through the instant petition. Learned counsel for the petitioner submits that petitioner has already undergone about 4 years of sentence out of his total awarded sentence of 5 years. The wife of the petitioner has to undergo surgery of uterus and petitioner has to make arrangement for the surgery of his wife and to take care of.

3. This court has given a deep thought to the aforesaid submissions made by learned counsel for the petitioner and gone through the record available on file.

4. As per Section 2(aa)(i)(1&2) and Sub-Section(2) of Section 5 (A) of the Haryana Good Conduct Prisoners' (Temporary Release) Amended Act, 2015 which reads as under:

“A prisoner shall be considered as a 'hardcore prisoner' who has been convicted of robbery u/s 392 or 394 IPC and dacoity u/s 395, 396 or 397 IPC”

“Notwithstanding anything contained in sub-section (1), a hardcore prisoner, who has not been awarded death penalty, may be entitled for temporary release or furlough only if he has completed his five years imprisonment and has not been awarded any major punishment by the Superintendent of Jail, as judicially appraised by the concerned District and Sessions Judge:

Provided that the five years imprisonment period shall

CRWP No.1164 of 2016

[3]

not include imprisonment during trial period for more than two years, while counting five years of imprisonment.”

5. A glance at the aforesaid provisions makes it clear that the petitioner is not covered by the aforesaid provisions. The convict falls under the category of hardcore prisoner being convicted and sentenced under Sections 392/395 IPC and further he has not completed the requisite period of imprisonment necessary for initiating the parole.

6. Accordingly, this court is of the considered view that it is not a fit case to release the petitioner on parole.

7. Dismissed.

September 01, 2016

Avin/Ankur

**(JASPAL SINGH)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No