

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

CRWP 443 of 2016

Date of Decision: July 8, 2016.

Manoj		Petitioner
	Versus	
State of Haryana and others		 Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE GURMIT RAM**

Present : Mr. V.S.Rana, Advocate

Mr. M.S.Sidhu, Addl. Advocate General, Haryana.

T.P.S.MANN, J.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India praying for setting aside the order dated 15.3.2016 passed by the Commissioner, Gurgaon Division, Gurgaon, whereby, application filed by him for grant of parole stood rejected.

The petitioner stands convicted in case FIR No. 465 dated 1.10.2007 under Sections 302/364/395 IPC and sentenced to undergo imprisonment for life by learned Additional Sessions Judge, Faridabad, vide judgment and order dated 24.12.2010. Against his conviction and sentence, he has preferred an appeal which stands admitted.

According to the petitioner, he has maintained good conduct during his stay in the jail and has given no chance of any complaint. However, he overstayed parole from 18.8.2012 to 12.7.2013 and for that reason FIR No. 140 dated 30.8.2012 under Sections 8 and 9 of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act 2013 was registered at Police Station Sadar Ballabhgarh, District Faridabad and its trial is pending in the Court of learned Judicial Magistrate 1st Class, Faridabad. It is pleaded by the petitioner that he applied for parole so as to enable him to get his children admitted in the school. The application was forwarded by the Jail Superintendent to the District Magistrate, Faridabad, who recommended his release on parole for the reason that he was entitled to the same and the local police had no objection. The District Magistrate, Faridabad forwarded the application of the petitioner to the Commissioner, Gurgaon Division, Gurgaon, who however rejected the parole case of the petitioner on the ground that after being released on parole for six weeks on 6.7.2012, he was required to surrender on 18.8.2012 but he overstayed the parole and could be arrested only after ten months and twenty five days from the date, he was required to surrender.

Learned counsel for the petitioner has submitted that the impugned order dated 15.3.2016 passed by the

Commissioner rejecting parole case of the petitioner is liable to be set-aside in view of Rule 10 (ii) of the Haryana Good Conduct Prisoners (Temporary Release) Rules 2007, as per which, there is no absolute bar to the entertaining of the application of a convict for release on parole for all times to come in case he overstays parole earlier granted to him. As the petitioner had overstayed parole by ten months and twenty five days, his case for release on parole could be entertained if a period of two years had passed since the date of his surrender/arrest. As the petitioner was arrested on 13.7.2013 and a period of more than two years has elapsed since then, the petitioner, once again, submitted an application for release on parole. As his application was duly entertained and recommended by the Jail Superintendent and, thereafter by the District Magistrate, the Commissioner was not justified in rejecting it on the sole ground that he had earlier absconded parole for a period of ten months and twenty five days.

Reply has already been filed on behalf of the respondents, wherein, it is stated that the Commissioner vide impugned order had refused to order the release of the petitioner on parole for the reason that he had earlier absconded parole for a period of ten months and twenty five days.

Having heard learned counsel for the parties, this

Court finds that Rule 10 provides for granting further parole to a convict, even if he had overstayed the earlier parole. However, in case the overstay was for more than 15 days, such an application could be entertained by the Jail Superintendent after one year from the date of his surrender/arrest and in case the overstay was for thirty days or more, then the application for further parole could be entertained only if a period of more two years have elapsed since the date of his surrender/arrest. Thus, there is no absolute bar to the entertaining of the application in case the convict had overstayed the earlier parole. However, he has to wait for specified period of time, and, like in case of the petitioner, the one who overstays parole for thirty days or more will have to wait for at least two years from the date of surrender/arrest before he could submit an application to the Jail Authorities for his release on parole once again.

In view of the above, this Court finds that the impugned order passed by the Commissioner while rejecting the parole case of the petitioner merely for the reason that he had remained absconded for ten months and twenty five days is legally not sustainable and liable to be set-aside.

Resultantly, the impugned order dated 15.3.2016 (Annexure P-1) passed by the Commissioner, Gurgaon Division, Gurgaon, rejecting the parole case of the petitioner is set-aside

and the matter is remanded to the Commissioner, Gurgaon Division, Gurgaon to consider the matter afresh within one month from the date of receipt of a certified copy of the order.

The petition is allowed.

**(T.P.S. MANN)
JUDGE**

July 8, 2016
amit rana

**(GURMIT RAM)
JUDGE**