

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

**Criminal Writ Petition 452 of 2016
Date of Decision: August 4, 2016**

Rajiv Mittal		Petitioner
	Versus	
State of Haryana and another		 Respondents

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

Present : Mr. Jitender Malik, Advocate
for the petitioner.

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

T.P.S.MANN, J.

Prayer made in the petition filed by Rajiv Mittal is for issuance of directions to the respondents to release him temporarily on parole for a period of eight weeks so as to enable him to get his three daughters admitted in the new session 2016-17, settle the business liabilities and make payment of income and sale tax of the company run by his father Krishan Kumar Mittal, who expired on 5.3.2016.

The petitioner stood convicted in case FIR No. 377 dated 23.6.2008 registered at Police Station City Bhiwani under Sections 302, 506, 120-B, 216 and 34 IPC and Section 25 of the Arms Act. Against his conviction and sentence, he has preferred Criminal Appeal No. D-633-DB of 2013, which stands admitted for final hearing.

According to the petitioner, he has already undergone

actual sentence of more than nine years. His father Krishan Kumar Mittal expired on 5.3.2016 due to heart attack. In order to perform the last rites of his father, he was granted *interim* suspension of sentence for four weeks vide order dated 15.3.2016 by this Court. His father had been running a trading company under the name and style of Mittal Trading Company as sole proprietor. After his death, the petitioner has to clear the dues towards income tax, sale tax and existing bank limits, etc. It is also pleaded that the petitioner has three daughters, namely, Riya Mittal, Reema Mittal and Kiran Mittal. The eldest two are studying in 9th class while youngest in second class in Vaish Public School, Rohtak. Their present session was to be over on 31.3.2016. Their new session would start, thereafter. Earlier, all the responsibilities were being discharged by his late father and now it is the petitioner, who had to take care of all the responsibilities. His younger brother is mentally disturbed and receiving treatment. Only the petitioner can arrange for admission of his three daughters. Accordingly, the petitioner may be released on parole for a period of eight weeks.

Upon notice, reply was filed by the respondents, wherein, it was stated that the petitioner was facing trial in four cases under the Prisoner Act for using mobile phone in jail premises and one case under Sections 384 and 506 IPC for threatening someone through mobile from the jail. Therefore, his

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case falls under the category of hardcore prisoner as per the Haryana Good Conduct Prisoners (Temporary Release) Act, as amended in the year 2012. He is entitled to temporary release or parole only, if he completes five years of imprisonment and had not been awarded any major penalty by the Superintendent of Jail, as judicially appraised by the concerned District and Sessions Judge. The said period of five years imprisonment is not to include imprisonment during trial period for more than two years. As the petitioner has not completed requisite period, he is not entitled for temporary release, as prayed for by him.

Alongwith the aforementioned reply, the respondents appended the verification report dated 4.5.2016 (Annexure R-3) as received from the Police Station Sadar Rohtak, wherein, it was stated that the three daughters of the petitioners were studying in Vaish Public School, Rohtak and their admission had already been done. It is also stated that the petitioner's father had expired on 5.3.2016. As the petitioner's brother Narender was living separately, the business of his father stood closed and there was none to maintain it. Further, the school fees of the children were to be deposited by the petitioner.

On 30.5.2016, learned State counsel requested for an adjournment so as to place on record the report of the Superintendent of Police, Rohtak. Copy of the report dated 24.5.2016 made by the Superintendent of Police has been placed

on record by the learned State counsel, wherein, it stands mentioned that the petitioner remained confined in Bhiwani jail for 8/9 years in a murder case and now he is confined in Ambala jail for about 4/5 years. His family consists of his mother, aged 58 years, younger brother Narender, wife Renu and three daughters. His two eldest daughters, namely, Riya and Reema were studying in 10th class while his youngest daughter Kiran studying in 3rd class in Vaish Public School. The father of the petitioner expired on 5.3.2016. His younger brother is residing separately. His father's business, which came to his share, is lying closed as there is none to take care of the same. The petitioner is required to deposit the school fees of his children. However, the wife of the petitioner is in a position to deposit the school fee. It is further mentioned that pursuant to a secret inquiry, it has been learnt that in case the petitioner comes out on parole, he would not return to the jail and also disturb the peace. Accordingly, the request for release of the petitioner on parole could not be accepted.

Having heard learned counsel for the parties and on going through the pleadings as well as the report of the Superintendent of Police, Rohtak, this Court is of the view that it would not be appropriate to issue directions to the respondents to release the petitioner on parole for a period of eight weeks. The purpose, for which, the petitioner sought his release on parole was the admission of his three daughters in higher classes. It has

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come on record that the admission process is over and the three daughters of the petitioner stood admitted in higher classes. Further, the petitioner's wife is competent enough to deposit the school fees of their three daughters. As regards the petitioner's father expiring on 5.3.2016 and his requirement to settle business liabilities and pay various taxes, suffice it to state that after the petitioner's father expired, this Court had released him on *interim* bail for a period of ten days. That period was sufficient enough for the petitioner to take care of all the formalities of depositing various taxes in relation to the business of his late father. Apart from the above, this Court finds that on four different occasions, the petitioner while being confined in jail was found in possession of mobile and for that reason four separate FIRs were registered. Besides, the petitioner stood booked for offences under Sections 384 and 506 IPC for threatening someone through mobile from the jail premises. His aforementioned conduct does not warrant his release on parole.

In view of the above, the petition is without any merit and, accordingly, dismissed.

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

August 4, 2016
amit rana

**(GURMIT RAM)
JUDGE**

Whether reasoned/speaking	:	Yes/No
Whether reportable	:	Yes/No