

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Writ Petition No. 455 of 2016

Date of Decision: 15.07.2016

Dilbag alias Toni

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Mahesh Grover.
Hon'ble Mr. Justice Shekher Dhawan.**

1. Whether reporters of local newspapers may be allowed to see judgment?
- 2 To be referred to reporters or not?
- 3 Whether the judgment should be reported in the Digest?

Present: Mr. A.S.Trikha, Advocate
for the petitioner.

Ms. Kirti Singh, Deputy Advocate General,
Haryana for the respondents.

Mahesh Grover, J.

The petitioner prays for his temporary release on parole under the provisions of Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 (hereinafter referred to as “the Rules”) for getting his child admitted in a school. The benefit has been denied by the competent authority by relying upon Rule 4(1) of the Rules as the petitioner has not completed one year sentence.

The petitioner is facing incarceration upon being convicted by

the learned trial Court in a case registered against him vide FIR No. 189

dated 16.7.2014, under Section 302/34 IPC and Section 25 of the Arms Act, 1959 at Police Station Kalanaur, District Rohtak.

Rule 3(1) of the Rules provides that prisoner, who is desirous of seeking temporary release under Section 3 or Section 4 of the Act, would make an application in Form A-1 & Form A-2 as the case may be to the Superintendent of Jail, who shall forward the same with his recommendation to the Director General for grant of necessary release. Rule 4 of the Rules contains the eligibility and debars the person from availing the benefit if he has not completed one year of imprisonment after conviction. Rule 8 of the Rules further goes on to prescribe the sufficient cause. For the purpose of qualifying under Section 3(1)(d) and to include the purpose for which the petitioner had invoked the provisions of the Rules, we would extract the same here-below:-

“8. Sufficient cause.[sections 3(1)(d) and 10(2) (d)].---

Under section 3(1)(d) “sufficient cause” may be considered from amongst the following reasons, namely: -

- (i) admission in school/college/professional institutions of the dependents of the convict;*
- (ii) medically scheduled delivery of wife of the convict;*
- (iii) house repairs/new construction of house owned by the convict. Parole for house repair shall be granted only once in three years;*
- (iv) marriage of prisoner's brother's son or daughter to be celebrated in case his brother is not alive.”*

Evidently, the competent authority has not taken into

consideration the purpose for which the parole was sought and re-concile it to the afore-extracted provisions.

A Division Bench of this Court in Criminal Writ Petition No. 685 of 2015 decided on 18.5.2015 observed that restriction of one year imprisonment after conviction to attain eligibility has been imposed by way of Rule 4 but there is no such restriction in the substantive provision of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (hereinafter referred to as “the Act”) and thus, the Rules framed thereunder cannot supersede the substantive provision of the Act i.e. Section 3(1)(d) in the instant case which when read with Rule 8(1) of the Rules would entitle the petitioner for consideration of his release temporarily for the purpose assigned in the petition.

In the circumstances, we allow the writ petition with the direction to the respondents to release the petitioner temporarily on parole for the purpose stated in the petition for a period of two weeks. Needless to say, petitioner would furnish necessary surety to the satisfaction of the competent authority.

(Mahesh Grover)
Judge

(Shekher Dhawan)
Judge

July 15, 2016
“DK”