

In the High Court of Punjab and Haryana at Chandigarh

Crl.Writ No. 604 of 2016

Date of decision: 6.5.2016

Sandeep

.....petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE M.JEYAPPAUL
HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr.Raman Chawla, Advocate,
for the petitioner

- 1. Whether Reporters of local papers 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?**

Raj Mohan Singh, J.

1. Petitioner seeks issuance of necessary directions to the respondents for his release on emergency parole in terms of Section 3 (1) (d) (iv) of the Haryana Good Conduct Prisoners (Temporary release) Act, 1988 (hereinafter referred to as 'the Act') for a period of four weeks on the ground that marriage of his sister is going to be solemnized on 9.5.2016. Petitioner also seeks to challenge the order dated 18.4.2016 passed by respondent No.3, thereby, declining his prayer for the grant of parole.

2. Petitioner was tried and convicted in case bearing FIR No. 146 dated 3.7.2013 under Sections 363, 366-A, 376 (D), 379 IPC and under Section 6 of the POCSO Act registered at Police Station Khol, District Rewari. He was sentenced to undergo rigorous imprisonment for a period of 20 years. Criminal Appeal bearing CRA-D-362-DB of 2015 is pending in this Court, where amount of fine was stayed.

3. Earlier prayer for parole of the petitioner, on the ground of harvesting of crop, was declined by the competent authority, vide order dated 4.4.2016. Now petitioner seeks emergency parole on the ground that marriage of his sister is going to be solemnized on 9.5.2016. He is the only son of his parents. He has four sisters. Out of them two have already been married. Family members of the petitioner are dependent upon him. Representation, which was made through father of the petitioner for release on emergency parole, was declined by respondent No.3 vide order dated 18.4.2016 by endorsing that the petitioner falls under the category of hardcore criminal being convicted in terms of Section 376 (D) IPC.

4. As per provisions of the Act, case of the petitioner falls under Section 2 (aa) (1) (7) of the Act, therefore, parole cannot be granted in such a case unless and until the convict completes a period of five years of actual sentence. Petitioner has undergone only a period of 2 years, 8 months and 24 days

as on 3.3.2016, therefore, by legal fiction the case was not considered by the competent authority. Since there is an express bar for the grant of parole in case the convict is sentenced to undergo for the offences as mentioned in Section 2 (aa) (1) (7) of the Act as amended in 2013, therefore, parole cannot be considered prior to undergoing five years of actual sentence by the petitioner/ convict as he falls under the category of hardcore criminal. There cannot be any exception to the mandatory rule, dehoes the bonafide as projected by the petitioner in the context of marriage of his sister and he being the only son of his parents.

5. The claim of the petitioner cannot be appreciated over and above the mandate of law, therefore, this petition is totally devoid of merits and the same is dismissed.

(RAJ MOHAN SINGH)
JUDGE

(M.JEYAPPAUL)
JUDGE

May 06, 2016
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