

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

**CRWP No. 624 of 2016
DECIDED ON: MAY 11, 2016**

PARAS SHARMA

.....PETITIONER

VERSUS

STATE OF HARYANA AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

- 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?**

Present: Mr. H.S. Jaswal, Advocate
 for the petitioner.

JASPAL SINGH, J (ORAL)

Challenge in this petition preferred under Article 226 of the Constitution of India, is to the order dated May 06, 2016 (Anneuxre P-6) passed by respondent No.2-Superintendent Jail, District Jail, Kurukshetra whereby, the claim of the petitioner for grant of parole has been rejected on the ground that petitioner has not undergone one year of his sentence and has not earned First Annual Good Conduct Remission under the provisions of Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 (for short "Rules 2007") and with further prayer for grant of parole to the petitioner under Section 3(1)(a) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for

brevity “Act 1988”).

2. Notice of motion.

3. At the asking of Court, Ms. Neelam Kashyap, DAG, Haryana accepts notice on behalf of respondent-State of Haryana. Copy of the petition be supplied to learned State counsel during the course of day.

4. Undisputably, petitioner earlier preferred **CRWP No. 582 of 2016** seeking relief for grant of parole for a period of 4 weeks but that petition was withdrawn by learned counsel for the petitioner with liberty to move an application seeking parole to the competent authority vide order dated May 04, 2016 passed by this Court. Subsequent thereto, he preferred an application dated May 05, 2016 (Annexure P-3) but that was declined by respondent No.2 vide order dated May, 06, 2016 (Annexure P-6).

5. A glance at the afore-said impugned order transpires that the only ground for rejection taken by respondent No.2 is that petitioner has not completed one year of his sentence and also not availed first Annual Good Conduct Remission as required under Rule 4(1) of the Rules, 2007.

6. Here, it would be pertinent to mention that there is no such restriction imposed in the Act 1988 and in such a situation rules cannot supersede the substantive provisions of the Act 1988. Such a question came for hearing before this Court in the case of **Deepak v. State of Haryana & another; 2014 (4) RCR (Criminal), 531** wherein, it was as under:

“5. We have given our thoughtful consideration to the matter. It may be noticed that in terms of Section 3(1)(a) of the Act, a prisoner is entitled for parole if a member of the prisoner's family has died or is seriously ill or the prisoner himself is seriously ill. The restriction of one year of imprisonment after conviction to be

eligible for temporary release has been imposed by way of Rule 4 of the Haryana Good Conduct Prisoners (Temporary Release) Rule, 2007 (for short 'the Rules) which was published in the Haryana Government Gazette (Extra) Legislative Supplement Part III dated 18.12.2007. There being no such restriction in the Act, the Rules cannot supersede the substantive provision of the Act."

7. Thus, the impugned order dated May 06, 2016 (Annexure P-6) is absolutely against the Rules and settled cannons of law and deserves to be set aside.

8. Resultantly, instant petition is allowed. The petitioner be released on parole for a period of three weeks, to be counted from the date of his actual release subject to his furnishing appropriate bonds to the satisfaction of the District Magistrate, Kurukshetra.

MAY 11, 2016
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(JASPAL SINGH)
JUDGE