

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP No.632-2016

Date of Decision:-18.10.2016

Janki Parsad

..Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mrs. Sarla Chaudhary, Advocate for petitioner.

Mr.Manish Bansal, DAG, Haryana.

HARI PAL VERMA J.(Oral)

Prayer made in the present petition filed under Article 226 of the Constitution of India is for the grant of House Repair Parole to the petitioner in view of *Section 3(1)d of the Haryana Good Conduct Prisoner's Temporary Release Act, 1988 (for brevity "the Act)* for 04 weeks.

Learned counsel for the petitioner contends that the petitioner was convicted and sentenced for life imprisonment in FIR No.46 of 1985 for offence under Sections 395/396/397 IPC P.S. Patudi, Distt. Rewari. She further submits that request of the petitioner for house repair parole has not been considered on the ground that the convict-petitioner absconded from the jail custody from 27.10.2005 to 01.05.2012 i.e. for 06 years 06 months and 10 days. But for the said lapse, he has already been sentenced to undergo 02 years imprisonment. She refers *Rule 10 (ii) of the Act* to contend that if the convict overstays 30 days or more of his parole/ furlough, his case shall not be entertained by the Superintendent of Jail

earlier than two years from the date of his surrender/arrest. Petitioner has completed more than 02 years' period. Therefore, his case is required to be considered under the aforesaid rule.

In support of her contention, she relies upon a judgment of Division Bench of this Court passed in **Jagdish Vs. State of Haryana and others 2016 (2) R.C.R. (Criminal) 641.**

On the other hand, learned counsel for the State has referred to para 6 of the reply submitted by Deepak Sharma, Superintendent, District Jail, Faridabad on behalf of respondents No. 1 to 4 and submits that as per the report of District Jail, Faridabad, convict-petitioner remained absconded from the jail custody from 27.10.2005 to 01.05.2012 i.e. for 06 years 06 months and 10 days and for the said offence, he has been sentenced to undergo 02 years imprisonment. He further submits that since the convict-petitioner has violated the parole rules, his claim for house repair parole has rightly been rejected.

Heard.

Vide order dated 03.08.2016, the claim of the petitioner for parole has been rejected without considering the aforesaid Rule 10 (ii) of the Act and the Division Bench judgement of this Court in **Jagdish's case (supra).** wherein this Court has observed that where a convict has absconded, his claim for parole can be entertained only after two years of his surrender/arrests as envisaged under Rule 10(ii) of the Rules.

Therefore, at this stage, without giving any opinion of the merits of the case, the respondents are directed to consider the case of the petitioner for house repair parole in accordance with law including Rule

10 (ii) of the Act and to pass a fresh speaking order.

With the aforesaid observation, present petition stands disposed of.

(HARI PAL VERMA)
JUDGE

18.10.2016
Anjal

<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>