

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP No.1398 of 2015 (O & M)
Date of decision: 05.05.2017

Rajesh @ Bahadur

....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MR. JUSTICE DARSHAN SINGH

Present: None for the petitioner.

Mr. Lokesh Sinhal, Addl. AG, Haryana and
Mr. Surender Singh Pannu, DAG, Haryana for the State.

S.S.SARON,J.

The criminal writ petition has been filed by the petitioner - Rajesh @ Bahadur praying for directions being issued to the respondents to consider and grant him six weeks agriculture parole. It is stated that an application sent by the petitioner through registered post on 02.09.2015 is still pending before the concerned Superintendent of Jail and the same has not been forwarded to the competent authorities without any reason. According to the petitioner, he has completed one year sentence of imprisonment which is the requirement for consideration for temporary release on parole in terms of Rule 4 of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007.

Reply has been filed by way of an affidavit of Shri

Satvinder Kumar, Superintendent, District Jail, Bhiwani on behalf of respondents No.1 to 3. In terms of the reply that has been filed, it is stated that the petitioner has been convicted by the learned Additional Sessions Judge, Bhiwani on 25.07.2014 for the offences punishable under Sections 302, 364 and 397 read with Section 34 Indian Penal Code ('IPC' – for short) in case FIR No.5 dated 10.01.2012 registered at Police Station Bhiwani for the offences under Sections 302, 364 and 392 and 34 IPC. He was sentenced by a separate order passed on 07.08.2014 to imprisonment for life; besides, pay a fine of Rs.10,000/- and in default thereof undergo imprisonment for one year for the offence under Section 302 read with Section 34 IPC. He was also sentenced to undergo rigorous imprisonment for 10 years; besides, pay a fine of Rs.8000/- and in default thereof, undergo imprisonment for nine months for the offence under Section 364 read with Section 34 IPC. He was further sentenced to undergo rigorous imprisonment for seven years for the offence under Section 397 read with Section 34 IPC. All the sentences were ordered to run concurrently.

It is submitted that the petitioner was sent for Court hearing to the Court of learned Additional District Judge, Rajgarh (Rajasthan) on 31.10.2015 in case FIR No.4 of 2008 registered at Police Station Rajgarh (Rajasthan) for the offences under Sections 307, 427, 147, 148 and 149 IPC. At present he is confined in Sub-jail Rajgarh (Rajasthan) in the said case.

An application was received from the wife of the petitioner through post by the Superintendent, District Jail, Bhiwani (respondent No.3) on 14.09.2015 for temporary release of the petitioner on parole for a period of six weeks. The said application was replied vide office letter No.9380 dated 28.09.2015. The wife of the petitioner was informed that since the petitioner has been convicted for the offences under Sections 302, 364 and 397 read with Section 34 IPC, therefore, he came under the category of 'Hardcore Prisoner' as defined in Section 2 (aa) (i) (2) of the Haryana Good Conduct (Temporary Release) Act 1988 ('Act' – for short) as amended by the Amendment Act, 2013. Section 2 (aa) (i) (2) of the Act defines 'Hardcore Prisoner' to mean a person, who has been convicted under Sections 395, 396 or 397 IPC. Therefore, according to the respondents, the petitioner is a 'Hardcore Prisoner'.

In terms of Section 2 (2) of the Act as amended by Amendment Act, 2015, it is envisaged that notwithstanding anything contained in sub-Section (1), a convicted hard-core prisoner who has not been awarded death penalty, may be entitled for temporary release or furlough only if he has completed five years imprisonment and has not been awarded any major punishment by the Superintendent of Jail, as judicially appraised by the District and Sessions Judge.

The petitioner, therefore, has to complete five years of imprisonment after conviction, which was ordered on 25.07.2014.

At the time when the petition was filed, the application filed by the petitioner was pending. It is thereafter it had been dismissed. Therefore, the present petition has been rendered infructuous and is accordingly dismissed as such. However, the petitioner would be at liberty to challenge the order declining his temporary release on parole.

(S.S. SARON)
JUDGE

(DARSHAN SINGH)
JUDGE

05.05.2017
A.Kaundal

Note:

1. Whether the order is speaking/reasoned: Yes
2. Whether the order is reportable : No