

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

CRWP No.955 of 2016

Date of Decision: January 09, 2017

DEEPAK

-PETITIONER

VS

STATE OF HARYANA AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

Mr.P.P.Chahar, DAG, Haryana.

RAJ MOHAN SINGH, J. (ORAL)

Petitioner seeks quashing of order dated 29.03.2016 passed by respondent No.1 whereby parole was declined to the petitioner on the ground that during currency of imprisonment of life in an offence under Section 302/307/120-B/34 IPC, a mobile phone battery along with sim card was recovered from the convict-petitioner and therefore, it was alleged that the convict has committed an offence in the jail premises and was termed as hard-core criminal and his case for parole could have been considered only after completing five years from the date of judicial appraisal in view of Haryana Good Conduct Prisoner's

(Temporary Release) Amendment Act, 2015. The inquiry in respect of parole case was got conducted by Superintendent of Police, Sonapat who recommended that the petitioner may not be released on parole in order to avoid untoward incident in the village.

Learned counsel for the petitioner submitted that in respect of alleged offence under Section 42 of Prisons Act and under Section 188 IPC, petitioner along with co-accused Anil have since been acquitted by Addl. Chief Judicial Magistrate, Yamuna Nagar at Jagadhri vide judgment dated 19.02.2015. The said judgment came into existence even before rejection of parole vide order dated 19.03.2016, but still the judgment of acquittal for jail offence was not considered by respondent No.1.

The order of acquittal dated 19.02.2015 was passed on the fact that the FIR for the said offence was registered on 09.05.2012 and on the date of registration of FIR, the mobile phone was not listed as one of the prohibited article under the Punjab Jail Manual. This offence was inserted only by way of notification dated 21.02.2014 issued by the Government of Haryana. Therefore, the trial Court was of the opinion that ingredients of offence under Section 42 of the Prisons Act was not involved and the petitioner was acquitted of the offence.

At this stage, without meaning anything on merits of the case, it can be seen that respondent No.1 while rejecting the

parole case of the petitioner has not adverted to the order of acquittal in any manner.

In view thereof, it would be just and proper to direct respondent No.1 to consider the parole case of the petitioner in accordance with law without being influenced by any of the observations made by this Court.

The respondent No.1 shall pass a fresh order after analyzing all the facts and attending circumstances of the case preferably within a period of three weeks from the date of receipt of certified copy of this order.

Disposed of.

(RAJ MOHAN SINGH)
JUDGE

January 09, 2017

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No