

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

**Criminal Writ Petition No.148 of 2017 (O&M)
Date of Decision: October 30, 2017**

Mirdul

.....PETITIONER(s).

VERSUS

The State of Haryana and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

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

Mr. Deepak Grewal, D.A.G., Haryana.

SURINDER GUPTA, J.

The petitioner has filed this petition under Article 226 of Constitution of India for quashing/setting aside order dated 21.07.2016 (Annexure P-3) passed by Commissioner, Ambala Division declining application of petitioner seeking four weeks parole under the provisions of Section 3 (1) (d) of the Haryana Good Conduct Prisoner's (Temporary Release) Act, 1988 for repairing his dilapidated house.

Petitioner is undergoing sentence of imprisonment for life awarded to him by Additional Sessions Judge, Jagadhari vide judgment dated 24.02.1996 for offences punishable under Sections 395, 396, 397 and 460 of Indian Penal Code. While undergoing sentence, he was allowed emergency parole for one week on 23.02.1999. The petitioner jumped parole and absconded for a long period of 12 years 11 months and 14 days till he was arrested by Ambala police on 17.02.2012.

Before deciding parole, report was called from District Magistrate, Shamli, the place to which petitioner belongs, who has not recommended the grant of parole to him. His opinion was based on the report of Superintendent of Police, Shamli, stating that there is apprehension of prisoner's absconding, who has earlier jumped parole continuously for a period of 12 years 11 months and 14 days. Keeping in view the report of District Magistrate, Shamli, Commissioner, Ambala Division vide order dated 21.07.2016, declined parole to the petitioner.

This petition was taken up on 25.08.2017 and the Commissioner, Ambala Division was directed to look into the provisions of Sub Section 2 of Section 5-A of Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2015 and to reconsider the application of the petitioner seeking parole, which on reconsideration, was declined vide order dated 26.10.2017.

Learned counsel for the petitioner has argued that petitioner is now in custody for the last more than five years. Though he has earlier absconded for a period of 12 years 11 months and 14 days but parole cannot be declined to him for all times to come. The competent authority has to look into the conduct of the petitioner in jail while deciding his application and there is nothing that the petitioner, in any manner, has misconducted during his stay in the jail for the last five years.

Petitioner himself has given reason to competent authority to decline his request for parole. On his request, he was allowed emergency parole in February, 1999. He absconded and avoided his arrest for a continuous period of about 13 years. Superintendent of Police, Shamli, in

his report, has expressed his apprehension that if parole being allowed to the petitioner, he may again abscond. The petitioner has no valid reason for his absconding for a period of about 13 years.

Learned counsel for the petitioner submits that petitioner had a son, who was mentally upset and later died. Thereafter, his wife has died, therefore, he could not surrender in jail in time.

The above explanation given by learned counsel for the petitioner does not explain his long absence and avoiding his arrest for 13 years. He had never intimated the jail authorities about his family problem or had sought extension of parole period. Even if, contention of learned counsel for the petitioner be believed, this does not justify the long absence of petitioner for a period of about 13 years. Parole is not a right but a concession given to the prisoners and a person, who betrays faith of the authority allowing him concession of parole, cannot put that authority on test by allowing him the same concession again. This petition challenging order of the competent authority dated 21.07.2016 and subsequent order dated 26.10.2017, has no merits and is dismissed.

However, petitioner shall be at liberty to apply for grant of parole after a period of 12 months. Competent authority will consider his application under rules after getting report from the jail authority about conduct of the petitioner in jail.

October 30, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No