

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRWP-1104-2017
Date of decision: 24.01.2018

Balwan Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. A. S. Trikha, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

JAISHREE THAKUR, J. (Oral)

This criminal writ petition has been filed under Article 226 of the Constitution of India for grant of parole to petitioner herein to repair his house.

In brief, the facts are that the petitioner herein is undergoing imprisonment in case FIR No. 56 dated 06.03.1989, under Sections 363, 366 and 376 of the IPC at Police Station Jhajjar, wherein he was sentenced to undergo rigorous imprisonment for a period of eight years. The petitioner applied for grant of parole for house repair as he was the owner and there was no other capable person in the family to repair it. The application came to be rejected on the ground that the petitioner was released on 07.07.2009 for four weeks' parole while confined in District Jail, Karnal and was directed to surrender on 05.08.2009 but the petitioner did not surrender in time and became an absconder. He was, thereafter, lodged in District Jail, Jhajjar. After being lodged at Jhajjar, he again requested for grant of parole

which was granted to him and he was released on 25.04.2016 for four weeks and was directed to surrender on 25.05.2016 but the petitioner did not surrender in time again and became late from parole. The petitioner surrendered on 29.05.2016 after having overstayed for four days in violation of parole Act/Rules.

It is submitted that as per provisions contained in Section 2(2) of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2015, if a hardcore prisoner is released and violates any condition of temporary release or furlough, he shall be debarred from such release in future and in view of the fact that the petitioner herein has not surrendered within specified time, he is not entitled to grant of parole for house repair.

I have heard learned counsel for the parties and have also perused the pleadings of the parties.

As per the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2013, a hardcore prisoner is such person who has been convicted for committing offence of robbery, dacoity, kidnapping for ransom, murder or attempt to murder for ransom, rape with murder, rape with woman below sixteen years of age, etc. A proviso has been added to the said definition which reads that *“who failed to surrender himself within a period of ten days from the date on which he should have so surrendered on the expiry of the period for which he was released earlier under this Act.”*

A reading of the aforementioned proviso makes it clear that a hardcore criminal is also a person who has failed to surrender within a period of ten days from the date on which he had to do so, which would not be applicable to the petitioner herein. A reading of the reply filed by the

respondent-State would show that the petitioner, who had applied for parole in 2016, was granted four weeks' parole by the Commissioner, Rohtak Division, Rohtak. He was released on 26.04.2016 for four weeks and was directed to surrender on 25.05.2016, however, he surrendered on 29.05.2016 having overstayed for a period of four days which is lesser than the period of ten days' overstay as permitted.

Therefore, in view of above, the instant petition is allowed and the petitioner is ordered to be released on parole for a period of two weeks only.

24.01.2018
Waseem Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No