

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.10236 of 2018

Date of decision : 26.04.2018

Virender @ Dhillu

.....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Krishan Singh, Advocate for the petitioner.

* * *

DAYA CHAUDHARY, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India read with Section 3 (1) (b) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (hereinafter referred to as 'the Act') for issuance of a writ in the nature of mandamus directing the respondents to extend the period of parole for 17 days more as the petitioner has already been granted parole for a period of 25 days w.e.f. 10.04.2018 to 04.05.2018.

Learned counsel for the petitioner submits that the petitioner is having total five acres of agricultural land. The brother of the petitioner is also convicted and he is confined in the same jail. The petitioner submitted an application for grant of parole to look after his agricultural work. The application of the petitioner was sent to the District Magistrate, Jhajjar and thereafter, by considering the report of the Sub Divisional Magistrate and

after verifying the land, petitioner was allowed parole but it was only for a period of 25 days, whereas petitioner was entitled for six weeks parole. The petitioner is in need of more time and his period of parole be extended.

Learned counsel also submits that there is no apprehension of breach of peace and the petitioner has not misused concession of parole. There is no other male family member in his house to look after the agriculture work as season of harvesting is going on and subsequently the paddy crop is to be planted.

Heard arguments of learned counsel for the petitioner and have also perused the documents available on the file.

Admittedly, the petitioner was granted parole for a period of 25 days w.e.f. 10.04.2018 to 04.05.2018. The fact that the petitioner is having agricultural land is not disputed. In the present petition, the prayer of the petitioner is for extension of parole for further 17 days as petitioner is entitled for parole for six weeks, whereas it was granted for 25 days.

The remission and parole are not the vested rights of the prisoners. In fact, these are privileges granted by the State to the convicted prisoners. Therefore, a convict prisoner cannot claim these two privileges as his vested rights. There is a difference between right and privilege. Rights are classified under two categories of either being a fundamental right under the Constitution, or a statutory right granted by the Statute. On the other hand, a privilege is granted by the State under certain conditions and can equally be taken away by the State. The privilege can be given on certain specific grounds. Parole is a part of reformatory theory of punishment. It is

not necessary that all the convicts must have the privilege extended to them. These benefits can be refused in case refusal is based on intelligent differentia and has a nexus to the object of the Rules. A refusal cannot be violative of Article 14 of the Constitution of India. A prisoner may be released temporarily by an officer appointed in this behalf by the State Government in case it is desirable for a sufficient cause. However, it is relevant to mention here that the parole can be granted twice in a year.

As per provisions of Section 3 (2) (c) of the Act, the parole can be granted for the purpose of agriculture for a period not exceeding six weeks. The limit of six weeks is the maximum. Now during pendency of period of parole, he has filed this petition for extension of parole only for the purpose of agricultural activities. Nothing has been mentioned in the petition or raised in the arguments as to whether some incomplete agricultural work is there or the petitioner has not able to complete the agricultural activities. As per provisions of Section 3 (1) (c) of the Act, a convict can be released temporarily for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land or his father's undivided land actually in possession of the prisoner.

No doubt the petitioner can be released on parole for a maximum period of 42 days. This petition has been filed for extension of parole only on the ground that he is entitled for 42 days of parole and he has already been granted parole for 25 days. Parole cannot be claimed as a matter of right but the same is to be considered by keeping in view the facts and circumstances of the case. It is clear from the provisions of Section 3

(1) (c) of the Act that agricultural parole can be allowed for a period of not exceeding six weeks.

Moreover, the harvesting season is over and still the petitioner is to surrender on 4/5th May, 2018 as his parole is upto 4th May, 2018. In case any agricultural work remains to be completed, still time is there of more than one week.

In view of the facts as mentioned above and after considering the submissions made by learned counsel for the petitioner, there is no merit in the present petition and the same is hereby dismissed.

26.04.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No