

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

CWP No.10239 of 2018

Date of decision : 26.04.2018

Polu Ram

.....Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

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DAYA CHAUDHARY, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India read with Section 3 (1) (d) 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 further 13 days as the petitioner has already been granted parole for a period of 15 days w.e.f. 17.04.2018 to 01.05.2018.

Petitioner was convicted and sentenced for life imprisonment in case FIR No.328 dated 20.09.1995 registered at Police Station City Kaithal, Distt. Kaithal for offence under Section 302 IPC. Petitioner filed appeal before this Court which was also dismissed.

During pendency of the sentence, the petitioner submitted an application to the Superintendent, District Jail, Jhajjar for grant of four

weeks parole for admission of his children. The application moved by the petitioner was sent for verification and, thereafter, petitioner was allowed to go on parole for a period of 15 days. Now the petitioner has to surrender on 02.05.2018. During the period of parole, the petitioner has filed this petition for extension of parole on the grounds that he needs more time to arrange money for admission of his children. There is no other member of the family who can arrange money for the admission of his children. The parents of the petitioner have already expired and his wife is residing in the village along with minor children.

Learned counsel for the petitioner submits that as per provisions of Section 3 (1) (d) of the Act, the petitioner is entitled for 28 days parole and he was granted parole for a period of 15 days. The present petition has been filed for extension of period of parole only on the ground that for admission of his children and purchase of books and uniform, amount is required and same is to be arranged.

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

Facts relating to conviction of the petitioner in case FIR No.328 dated 20.09.1995 registered at Police Station City Kaithal, Distt. Kaithal for offence under Section 302 IPC and further dismissal of criminal appeal before this Court are not disputed. It is also not disputed that petitioner was granted parole for a period of 15 days and he is asking of extension of period as he is entitled for 28 days.

Petitioner has been released on parole on 16.04.2018 and now

he has to surrender on 02.05.2018. As per provisions of Section 3 (1) (d) of the Act, the petitioner is entitled for parole for any sufficient cause. As per Rule 8 of the Haryana Good Conduct Prisoners (Temporary Release) Rules 2007, the admission in school/college/professional institutions of the dependents of convict is considered a sufficient cause under Section 3 (1) (d) of the Act. The extension has been sought only on the ground that he is to arrange the amount for admission. For arranging the money, the petitioner is to do the labour work.

A query has been put to learned counsel for the petitioner as to how the family is able to survive when the petitioner remains in jail but learned counsel for the petitioner has not given any satisfactory reply. Neither a case has been made out that he does not have any income to support his family nor it has been mentioned in the petition or in the arguments raised by learned counsel for the petitioner that how much amount is required and how said amount would be arranged within next 13 days, whereas he has been granted parole for a period of 15 days. Totally a vague petition has been filed and no convincing and sufficient reason has been mentioned for extension of time of period of parole.

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.

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