

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

CWP No. 10458 of 2018

Date of Decision: 16.05.2018

DEEPAK KUMAR

..... Petitioner

V/s.

STATE OF HARYANA AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

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

Mr. Vishal Garg, Addl. A.G., Haryana.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner, a life convict and presently lodged in the District Jail, Yamuna Nagar, has prayed for the issuance of a writ in the nature of mandamus, directing the respondents to initiate proceedings on his application, filed under Section 3 (1) (d) of the Haryana Good Conduct Prisoners (Temporary Release), Act 1988 (hereinafter referred to as 'the Act') for releasing him on parole for the purpose of meeting his family members.

It is submitted that the petitioner had availed benefit of parole in the past as well.

After notice, respondents have filed their reply in which it is averred that the petitioner falls in the category of "Hardcore Prisoner" in view of the provisions of Section 2 (aa) (iv) of the Haryana Good Conduct Prisoners' (Temporary Release) Amendment Act, 2013 (hereinafter referred to as 'the amended Act') as he has been found in possession of one mobile phone inside the Jail premises. It is also averred in the reply that the case of

the petitioner would be governed by Section 5-A of the amended Act in which it is provided that *“a convicted hardcore prisoner who has not been awarded death penalty, may be entitled for temporary release or furlough only if he has completed his five years imprisonment and has not been awarded any major punishment by the Superintendent of Jail, as judicially appraised by the concerned District and Sessions Judge”*

The case registered against the petitioner is still pending on account of possession of one mobile phone within the jail premises. The limited prayer made by the petitioner in this case is for the issuance of directions to the respondents to consider his case.

After hearing learned counsel for the parties and taking into consideration the aforesaid facts and circumstances, this petition is hereby disposed of with a direction to the competent authority, much less, respondent No. 2-District Magistrate, Yamuna Nagar to take a decision on the application of the petitioner as to whether he has to be released on parole or not, even though he has been labelled as a ‘Hardcore Prisoner’. Necessary order shall be passed by the District Magistrate, Yamuna Nagar within a period two weeks from the date of receipt of certified copy of this order.

May 16, 2018

Ess Kay

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking / reasoned :	✓		
	Yes	/	No
Whether Reportable :	Yes	/	No