

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.13223 of 2018
Date of Decision:05.07.2018

Pawan @ Pondi

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Vijay Sangwan, Advocate, for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana.

RITU BAHRI, J. (ORAL)

The petitioner has come up in writ petition for issuance of a writ especially in the nature of Mandamus directing the respondents to release the petitioner on 6 weeks parole in view of Section 3(a)(c) of the Haryana Good Conduct Prisoners, Temporary Release Act, 1988.

The petitioner has been convicted vide order dated 07.08.2015 in an FIR No.140 dated 03.05.2015, for the offence under Sections 302/120-B/34/216 IPC and 25, 54, 59 of the Arms Act, registered at P.S.Kanina, District Mahendergarh on 07.08.2015 for life imprisonment. The Criminal Appeal No.CRA-D-1273-DB of 2015 is pending for adjudication before this Court. The petitioner has applied for 6 weeks parole to the Jail Superintendent, Narnaul, for agricultural purpose vide application Annexure P-1. The Surpanch of the Village Unhani District Mahendergarh, has submitted vide its letter dated 12.05.2018 (Annexure P-2) that it is certified that petitioner is permanent resident of village Unhani and he has ancestral land in the village and there is no danger to the peace and security to any in the village if the petitioner is released on parole.

On notice, reply has been filed by respondents No.1 to 3 stating therein that petitioner was found in possession of SIM Cards/Mobile Phone inside the Jail Premises and he has been convicted and sentenced by learned Court of Sh.Nishant Sharma, CJM, Narnaul and he was sentenced to

undergo two years rigorous imprisonments in case FIR No.290 dated 23.07.2014 for the offence under Section 42-A Act, P.S.City Narnaul, District Mohindergarh on 30.05.2015. It has been further submitted in the reply that petitioner falls under the category of hardcore prisoner as per clause 2(aa)(14)(iv) in the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2013.

The Division Bench of this Court while deciding the case titled Gurdeep Singh Vs. State of Haryana passed in CRWP No.1374 of 2017 decided on 07.12.2017, has rejected for denying grant of parole to any accused for agricultural purpose. In this regard, it has been observed as under:-

“ While this Court, in no uncertain terms, holds that the jail inmates cannot be allowed to keep mobile phones or such other gadgets etc. which are oftenly used to commit professional crimes like demand of ransom, kidnapping etc.etc.. Nevertheless, it is an integral part of the jail reforms that the inmates should be provided with telephone facilities to connect themselves with their family, nears and dears. Such a facility can be made available by the jail authorities through a land line number(s). In this backdrop, it is difficult to accept that the mere recovery of mobile phone from an inmate against whom there is not even a whisper that he ever misused the phone either to blackmail some one or for demanding ransom or he involved himself in any other nature of crime, would be sufficient to categorise him as a 'hardcore' prisoner. It is only in a case where the inmate is found to have misused the mobile facility for committing another crime while inside the jail, that he should be put into the category of 'hardcore criminals' and be deprived of his statutory right of parole. The petitioner, in the absence of any such allegation, does not fall in that exceptional category.

In view of the above, the present writ petition is allowed by

giving directions to the respondents to release the petitioner on 6 weeks parole in view of Section 3(a)(c) of the Haryana Good Conduct Prisoners, Temporary Release Act, 1988.

Disposed of accordingly.

(RITU BAHRI)
JUDGE

05.07.2018

anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No