

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

Civil Writ Petition No. 15157 of 2018
Date of decision : 06.07.2018

Akash Toggar @ ChummaPetitioner

versus

State of Haryana and another ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.S. Dhull, Advocate for the petitioner.

Ms. Nidhi Garg, AAG, Haryana

RITU BAHRI, J. (Oral)

The petitioner is seeking direction to the respondents to grant furlough to the petitioner for a period of two weeks' to enable him to meet with his family members and restoring the social ties.

The petitioner has been sentenced to undergo RI for life in a case FIR No.541 dated 13.07.2013, under Sections 302, 148, 149, 120-B IPC and Sections 25 of the Arms Act, registered at Police Station Ballabgarh, District Faridabad. His criminal appeal against conviction and sentence is pending in this Court.

The prayer of the petitioner for temporary release on furlough to enable him to meet with his family members and restoring the social ties, has not been entertained by respondent No. 2 on the pretext that one F.I.R is still pending against him and further one mobile phone was recovered from the petitioner. The case of the petitioner thus comes under the definition of hard core criminal as per Section 2 (aa) of The Haryana Good Conduct Prisoner's Temporary Release Act, 1988

On notice, a reply dated 06.07.2018 has been filed by the State in the Court today and the same is taken on record. As per reply, the petitioner has been acquitted in five case and in three pending case, he is on bail, the details of the same has been given in para No. 3 of the reply. The petitioner was also punished by Supdt, District Jail, Faridabad for 30 days separate confinement in security cell on 23.02.2018 but this punishment also completed on 23.03.2018.

Learned counsel for the petitioner at the very outset has referred to judgment passed by a Division Bench of this Court in a case of petitioner titled as ***Gurdeep Singh vs. State of Haryana and others, decided on 07.12.2017***, whereby also petitioner sought grant of parole for sowing wheat crop but the respondents have the same objection that since the petitioner was a hardcore prisoner, he cannot be granted parole. However, the Division Bench of this Court disposed of the petition on 07.12.2017 by directing the respondents to consider the case of the petitioner for his release on parole. The Division Bench 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 prayer made by the petitioner at this time for grant of furlough to meet with his family members and restoring the social ties, is allowed as Section 2 (2) of The Haryana Good Conduct Prisoner's Temporary Release Amendment Act, 2015 on which the respondents are relying cannot be applied in the case of the petitioner, as he does not fall under the category of hardcore prisoner. The petitioner has undergone 04 years and 11 months in custody, as per the information given by learned State counsel, on instructions from the police.

Applying the ratio of the above said judgment to the facts of the present case, the present petition is allowed and the petitioner on his furnishing personal bond and surety bonds to the satisfaction of the District Magistrate, Faridabad/Competent Authority shall be released on furlough for a period of two weeks to be counted from the date of his release. The petitioner shall surrender before the jail authorities after expiry of the period of parole. He shall not commit any offence during the period of parole and shall avail the parole only for the afore-stated purpose.

03.07.2018

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No