

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 15214 of 2018
Date of Decision: 12.07.2018

Harish Kumar

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Ravinder Kumar Bangar, Advocate,
for the petitioner.

Ms. Shruti Jain Goyal, DAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

The petitioner is serving life sentence in FIR No. 48 dated 14.05.2011 for murder, in District Jail, Faridabad. The petitioner applied for furlough which was rejected by the authorities vide order dated 03.03.2017. This is his first application for parole. He has been serving the sentence since May 2011 spent partly under trial and then under conviction.

The reason for requesting the parole is agricultural purpose. His request for parole has been declined by the authorities categorizing him as 'hardcore prisoner' for the reason a mobile phone was recovered from him in jail. This issue has been examined by the Division Bench of this Court in CRWP No. 1374 of 2017, Gurdeep Singh Vs. State of Haryana and others disposed of on 07.12.2017. In paragraph No.3, the

Bench observed as follows:

“We have heard learned counsel for the parties and gone through the record. 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. 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. We, thus, set aside the objection raised by the respondents and direct the

Competent Authority to consider the case of the petitioner for his release on agricultural parole.”

Following the principle in the aforesaid judgment, the petitioner becomes entitled for consideration for release on agricultural parole. The reasons in the impugned order cannot be sustained in view of the law in Gurdeep Singh's case (supra). I, therefore, set aside the objections raised by the respondent and the directed the authorities to consider the case of the petitioner for his release on agricultural parole by passing an appropriate order within one week from the date of receipt of certified copy of the order.

With the above observations and directions, petition is disposed of.

(RAJIV NARAIN RAINA)
JUDGE

12.07.2018

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No