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

CWP No.15863 of 2018
Date of decision: July 17, 2018

Kulbir ...Petitioner

Versus

State of Haryana and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Harish Nain, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

The petitioner has prayed for the issuance of a writ in the nature of *certiorari* for quashing the order dated 13.06.2018 by which his application for seeking parole under Section 3(1)(d) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (hereinafter referred to as the "Act"), enabling him to admit his children, namely, Ramandeep Singh, aged about 13 years, and Shabhanam, aged about 7 years, in the school has been declined.

In brief, the petitioner was tried in a case registered vide FIR No.85 dated 03.05.2006, under Section 15 of the NDPS Act, 1985 at Police Station Garhi, District Jind and was convicted by the Special Court vide its order dated 27.08.2007 for a period of 10 years and fine of ₹1 lac. The petitioner is at present lodged in the District Jail, Jind. He was released on parole for four weeks on 23.03.2010 and was directed to surrender on 21.04.2010. However, he absconded and was arrested on 15.09.2014 and lodged in District Jail, Sangrur. In this regard, a case vide FIR No.179 dated

14.09.2014, under Section 15 of the NDPS Act at Police Station Dhuri, District Sangrur was registered against the petitioner. Thereafter, he was admitted to the District Jail, Jind on 20.09.2014 and a case FIR No.415 dated 20.07.2012, under Sections 8/9 of the Act was registered against him at Police Station City Jind. The application of the petitioner for seeking parole has been turned down by the Superintendent of Prison, District Prison, Jind on the ground that the petitioner falls within the definition of “hardcore prisoner”, as provided under Section 2(aa)(v) of the Act which provides that *“hardcore prisoner means a person who failed to surrender himself within a period of ten days from the date on which he should have so surrender on the expiry of period for which he was released under this Act”*.

Learned counsel for the petitioner has submitted that Section 2(aa)(v) was brought in the statute by way of Haryana Act No.20 of 2012 by publication of notification in the Haryana Government Gazette on 01.10.2012, whereas the petitioner had to surrender on 21.04.2010, therefore, the said provisions do not apply to his case to declare him a hardcore prisoner. In this regard, he has relied upon a Division Bench judgment of this Court rendered in the case of the **Jagpreet Singh @ Preet vs. State of Haryana and others**, CRWP No.427 of 2015, decided on 14.07.2015, in which this Court has held that the Amendment Act came into existence on 03.10.2013 and at that time when the incident took place on 13.03.2012, the possession of a cell phone in the jail was not the offence for the purpose of declaring a person a hardcore prisoner. In nutshell, the argument raised by the counsel for the petitioner is that the provisions of the Amendment Act would not apply retrospectively.

After hearing learned counsel for the petitioner and examining the

available record, I am of the considered opinion that there is no dispute with the law laid down by the Division Bench in **Jagpreet Singh's case (supra)** but the said judgment is not applicable to the case of the petitioner because when the petitioner was arrested on 14.09.2014, he had already overstayed a period of 4 years and 5 months of his period of parole and in the meantime the amendment came, therefore, the amendment would apply to the case of the petitioner because at that time the petitioner was still absconding from the jail after expiry of the period of parole.

Thus, in my considered opinion, there is no error in the impugned order and hence, the present writ petition is hereby dismissed being denuded of any merit.

No costs.

July 17, 2018
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(Rakesh Kumar Jain)
Judge

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