

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16091 of 2018

Date of Decision: 17.07.2018

Ram Bilas

... Petitioner

Versus

State of Haryana and others

... Respondents

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

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

Mr. Harish Rathee, Sr. DAG, Haryana.

RAJIV NARAIN RAINA, J.(Oral)

1. Mr. Rathee has filed a short reply by way of affidavit of Jai Kishan Chhillar, Superintendent, District Jail, Gurugram.
2. The petitioner is serving imprisonment for life in Bhondsi Jail, District Gurugram for the offence of murder etc. The petitioner was under trial for the period August 10, 2012 to March 17, 2017 and after conviction has served sentence for more than one year. He is in jail since 2012. He applied for release on parole for the purpose of getting his children admitted to school. The request has been declined vide order dated June 25, 2018 passed by the Commissioner, Gurugram Division, Gurugram.
3. As per report of the Jail Superintendent, a mobile phone was recovered from the petitioner and a case registered against him in FIR No.384 of 2015 under Section 42 of the Prison Act in Police Station Bhondsi, Gurugram. The petitioner has been allowed bail in the case on January 02, 2016 by the JMIC, Sohna, Gurugram. Another FIR was lodged

against the petitioner under Section 147 IPC in Police Station Manesar, Gurugram and he has been acquitted of the charges on February 10, 2016 by the Court of JMIC, Gurugram. What remains presently under consideration is whether possession of mobile in jail would be sufficient to deny the benefit of release on parole. This issue has been considered by the Division Bench in *Gurdeep Singh v. State of Haryana and others*, CRWP No.1374 of 2017 decided on December 07, 2017 in wherein the Court has observed and held as follows:-

“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.

4. The reasons for rejection of parole request in the present case is not sustainable in view of the decision in *Gurdeep Singh's* case (supra).

5. It may be noticed that the petitioner had earlier approached this Court in CWP No.12391 of 2018 when his representation for release on parole was pending without decision and on the statement of State counsel that the representation would be decided at the earliest and in any case not later than two weeks that the petition was disposed of as no further direction

was necessary. The rejection has come after this order was passed.

6. In any case, the police has sufficient wherewithal at its command to remain vigilant while the petitioner is on parole and to keep an eye on him.

7. In view of the above, the petition is allowed. The impugned order is quashed. The petitioner is granted parole of four weeks in terms of the application from the date of release to the satisfaction of the jail authorities at Gurugram/District Magistrate at Gurugram on furnishing bail bonds, if not already furnished.

8. At the end of the parole period, the petitioner will surrender before the jail authorities on date and time fixed by the jail Superintendent.

(RAJIV NARAIN RAINA)
JUDGE

17.07.2018
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No