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

CWP No.16968 of 2018

Date of decision: September 28, 2018

Deepak Kumar

...Petitioner

Versus

The State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Hoshiar Singh Jaswal, Advocate,
for the petitioner.

Mr. Rahul Mohan, DAG, Haryana.

Rakesh Kumar Jain, J. (Oral)

The petitioner has challenged the order dated 18.06.2018, by which his application for grant of parole to meet his family members has been declined.

In brief, the petitioner is suffering life imprisonment in District Jail, Yamuna Nagar, inflicted upon him on 06.01.2015 by the Additional Sessions Judge, Yamuna Nagar in a case registered vide FIR No.250 dated 04.08.2011, under Sections 304B/34 IPC at Police Station Farakpur, District Yamuna Nagar. He had applied for grant of parole to meet his family members especially his 7 years old son. However, his application has been declined on the ground that the petitioner has been found in possession of a mobile phone, on which a case was registered against him vide FIR No.44 dated 28.01.2016, under Section 42-A the Prisons Act, 1894 at Police Station Jagadhri, Yamuna Nagar. Thus, according to the respondents, the petitioner falls in the category

of “hardcore prisoner” in terms of Section 2(aa)(iv) of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2013 (hereinafter referred to as the “Act”) and, would be eligible for any kind of parole/furlough after completion of five years of imprisonment after being categorized as a “hardcore prisoner” in terms of Section 5-A(2) of the Act.

However, counsel for the petitioner has relied upon a decision of the Division Bench of this Court rendered in the case of **Gurdeep Singh vs. State of Haryana and others**, CRWP-1374-2017, decided on 07.12.2017, in which this Court has held that if there is no allegation of misuse of the mobile phone found in possession of a convict inside the jail premises, then the said convict cannot be categorized as a “hardcore prisoner”.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the petitioner cannot be categorized as a “hardcore prisoner” for having a cell phone in his possession inside the jail premises in view of the law laid down by this Court in **Gurdeep Singh's case (supra)**.

In view of the above, the present petition is hereby allowed, impugned order is set aside and the matter is remanded back to respondent no.2 to re-decide the case of the petitioner for grant of parole in view of the observations made here-in-above, within a period of one week from the date of receipt of certified copy of this order.

September 28, 2018
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(Rakesh Kumar Jain)
Judge

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