

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

**CWP No. 1893 of 2018**

**Date of Decision: 23.05.2018**

***PHUL KUMAR @ PHULA***

***...Petitioner***

**VS.**

***STATE OF HARYANA AND OTHERS***

***...Respondents***

**CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**

Present: Mr. K.P.S. Virk, Advocate,  
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

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**RAKESH KUMAR JAIN, J. (ORAL)**

This petition is filed for seeking parole for a period of six weeks for the agricultural operations/purposes.

The petitioner is lodged in the District Jail, Rohtak, having committed the offence under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act') and sentenced to under rigorous imprisonment for 12 years. Against the said order of conviction and sentence, a criminal appeal, filed by the petitioner, is pending before this Court.

Notice in this petition was issued and reply is filed today in the Court in which it is averred that the petitioner is a 'hardcore prisoner' within the meaning of Section 2 (aa) (xiii) of the Haryana Good Conduct, Prisoners (Temporary Release) Amendment Act, 2013 in which it is provided that "*Hardcore prisoner means a person who has been convicted of offence under Section 17 (c) or 18 (b) of the Narcotic Drugs and Psychotropic Substances Act, 1985*".

It is submitted by the learned State counsel that since the petitioner has been convicted under Section 18 of the said Act, therefore, he

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is a 'hardcore prisoner' and cannot apply for parole in terms of Section 3 of the Haryana Good Conduct, Prisoners (Temporary Release) Amendment Act, 2013, rather, he has to apply for parole in terms of Section 5-A which is a special provision for the hardcore prisoners in which it is provided that the application of the prisoner for his temporary release/parole cannot be considered till he/she suffers the sentence for five years.

Learned counsel for the petitioner has failed to refer to any provision/precedent in support of his case.

After hearing learned counsel for the parties and taking into consideration the aforesaid facts and circumstances, I am of the considered opinion that there is no merit in the present petition because the application filed under Section 3 of the Act is not maintainable as the petitioner is a hardcore prisoner and has to file the application under 5-A of the Act for temporary release as the same cannot be entertained till he suffers the sentence for five years.

In view of the above, I do not find any merit in the present petition and the same is hereby dismissed, though without any order as to costs.

**May 23, 2018**

Ess Kay

**(RAKESH KUMAR JAIN)  
JUDGE****Whether speaking / reasoned :**✓  
**Yes / No****Whether Reportable :****Yes / No**