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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 19394 of 2018
Date of Decision: 06.08.2018

BHAL SINGH ***....Petitioner***

VS.

STATE OF HARYANA AND AOTHER ***...Respondents***

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

Present: Mr. Sudhir Pruthi, Advocate,
for the petitioner.

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RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed under Section 3 (1) (d) of the Haryana Good Conduct Prisoners (Temporary Release), Act, 1988 for the purpose of release of the petitioner and for quashing of the order dated 02.07.2018 by which his application for seeking parole has been rejected on the ground that he is a hardcore prisoner in terms of Section 2 (aa) (v) of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2013.

Learned counsel for the petitioner has not denied that the petitioner was released on furlough for two weeks w.e.f. 05.05.2015 and was directed to surrender at the jail gate on 20.05.2015 but he absconded and was arrested after 1 year and 11 days. It is submitted that one FIR was registered against him under the provisions of the Act in which he has been acquitted. It has also not been denied that he has been acquitted on the technical grounds but the fact remains that he was absconded for a period of more than one year and only brought back to jail by arrest.

Section 2 (aa) (v) of the amended act 2013 says 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 surrendered on the expiry of the period for which he was released earlier under this Act.*"

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The petitioner cannot deny this fact that the said provision of the Act applies to his case as he was absconded for more than one year, after coming into force the Amendment Act, 2013, therefore, he is labeled as "hardcore prisoner" and the application filed by him under Section 3 (1) (d) of the Act is not maintainable because in the Act, there are two types of prisoners; one is prisoner and second is hardcore prisoner. For dealing with the hardcore prisoners, the Legislature has inserted Section 5-A in the Act for the purpose of seeking parole or furlough.

In view of the above, the petitioner, may, if so advised, file an application under Section 5-A for the purpose of seeking parole or furlough being a "hardcore prisoner" but insofar as the present petition is concerned, the same is hereby dismissed.

August 6, 2018 **(RAKESH KUMAR JAIN)**
Ess Kay **JUDGE**

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Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No

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