

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.19397 of 2018

Date of decision: September 06, 2018

Sagan Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr.Sushil Jain, Advocate for the petitioner.

Mr.Rahul Mohan, DAG Haryana.

Rakesh Kumar Jain, J. (Oral)

The petitioner is in District jail, Rohtak to suffer 10 years of sentence in a case registered under the NDPS Act. His appeal against the sentence and conviction is pending. A recovery suit bearing No.39/2016 was filed against the petitioner which was decreed on 22.8.2016. The petitioner could not file the appeal because he was in prison. The decree holder has filed execution of the decree by seeking attachment of the sale of the land of the petitioner in terms of the provisions of Order 21 of the Code of Civil Procedure, 1908. Counsel for the petitioner has submitted that if he may be allowed to be released on parole, he can arrange the payment of the decretal amount to save his land from being auctioned. It is submitted that 60 days' period is going to expire on 13.9.2018 under Order 21 Rule 89 of the CPC to deposit the amount otherwise execution is pending for 27.9.2018. He has thus prayed for two weeks' parole for the purpose of arranging the money to discharge his liability created under the decree.

On the other hand, counsel appearing on behalf of the respondents

has submitted that the petitioner has been declared a hardcore prisoner in terms

of Section 5A of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for short 'the Act') as he was found in possession of a mobile phone in the jail. In reply, it is submitted that the petitioner had earlier been released on bail for the agricultural purpose which was not misused by him.

I have heard learned counsel for the parties and perused the record with their assistance.

The petitioner has applied for parole by invoking the provisions of Section 3(i)(c) of the Act but it appears to be a mistake on his part of omission/commission otherwise. The petitioner is entitled to parole in terms of Section 3(i)(d) of the Act. The purpose for grant of parole appears to be genuine because if the petitioner is not released on parole, then he would not be in a position to make arrangement for the payment of money which has been due in view of the decree passed against him in the recovery suit otherwise he would loose his valuable land which may be put to auction because execution proceedings are pending against him. Thus, the petition is hereby allowed and the petitioner is ordered to be released on parole for a period of two weeks for the purpose of discharging his debts created due to the decree passed against him in a suit for recovery. The petitioner shall furnish the bail bonds to the District Magistrate, Rohtak, who would impose necessary conditions to ensure the surrender of the petitioner after the period of parole is over.

Copy of the order be given dasti to the counsel for the petitioner.

September 06, 2018
Meenu

(Rakesh Kumar Jain)
Judge

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