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

CWP No.20679 of 2018

Date of decision: September 18, 2018

Jagjit Singh @ Jaggi

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. Nandan Jindal, Advocate for the petitioner.

Ms. Rukhsar Dhindsa, AAG Punjab.

RAKESH KUMAR JAIN, J (Oral)

The petitioner has prayed for his release on parole in terms of the provisions of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (for short 'Act') for a period of 6 weeks.

Reply by way of affidavit of Sukhwinder Singh, PPS, Superintendent, Central Jail, Bathinda, filed by the learned State counsel today in Court, is taken on record.

The petitioner was convicted under Sections 302/ 376/ 404/ 120-B of Indian Penal Code, 1860 (for short 'IPC'), in the year 2010. Thereafter, he has been allowed parole for 9 times. The Punjab Good Conduct Prisoners (Temporary Release) Amendment Act, 2015 (for short 'Amendment Act') has provided the definition of 'hardcore prisoner' in Section 2(aa) (i) as under:

“(i) an offence of rape with murder under Section 376 read with Section 302 of the Indian Penal Code, 1860”

The claim of the petitioner is not being considered for

granting him parole on the ground that he is not a 'prisoner' but a 'hardcore prisoner', and therefore, he cannot be allowed parole in terms of the provisions which are applicable to the 'prisoner'.

Learned counsel for the petitioner has relied upon the two decisions of this Court; (i) Sonu @ Arun versus State of Haryana and others, CRWP No.1078 of 2014, decided on 09.02.2015 (DB); and (ii) Sukhvir Singh @ Sukha versus State of Punjab and others, CWP No.9699 of 2018, decided on 11.09.2019 (SB), to contend that the provisions of the Amendment Act would not apply retrospectively and would apply prospectively to mean that when the offence is committed under Section 302 read with Section 376 IPC, after the notification of the amendment on 07.01.2016.

Learned State counsel could not dispute the position of law as stated.

Consequently, the present writ petition is allowed and a direction is issued to the respondents to consider the case of the petitioner for grant of parole after considering him as a 'prisoner' and not a 'hardcore prisoner' and necessary orders be passed within a period of 15 days from the date of receipt of certified copy of this order.

(RAKESH KUMAR JAIN)
JUDGE

September 18, 2018
mahavir

Whether speaking/ reasoned: **Yes**

Whether Reportable: **Yes/No**