

240
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24189-2018 (O&M)
Date of decision : 19.12.2018

Jaswinder Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Chandeeep Singh, Advocate (Amicus Curia)
for the petitioner.
Mr. Sandeep Vashisth, DAG, Haryana.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Heard.

Present application filed by petitioner-convict namely Jaswinder Kumar was treated as criminal writ petition and now civil writ petition. The said application was filed before the Administrative Judge, Ambala during the period of jail inspection. In the application, petitioner-convict namely Jaswinder Kumar has prayed for releasing him on parole for education of the children namely Manmohit and Manrohit of his deceased brother. It is stated in the application that his brother Balwinder Kumar has expired on 8.6.2014 and he has old ailing father and mother. He adopted the sons of his brother after his death and he want parole for the education of those children. He has already availed parole twice from 17.12.2011 to 15.1.2012 for four weeks and from 8.7.2015 to 6.8.2015 for four weeks.

During the pendency of the petition, parole was declined by the District Magistrate vide order dated 4.1.2017 on the ground that there is no proof regarding the fact that children of his brother are dependent upon him.

Both the children are residing with their grand parents and they are looking

after both the children.

CWP-24189-2018 (O&M)

-2-

Admittedly, petitioner was granted parole twice and he has not misused the same. Petitioner was convicted for the offence under Section 376 of the Indian Penal Code on the allegation of committing rape with 08 years old minor child. The question is as to whether the children of the deceased brother are dependent upon him or not? Petitioner claims that children of his brother are dependent upon him after the death of his brother. His parents are old and infirmed person. Under Clause 3(1) (d) of the Haryana Prisoners Good Conduct (Temporary Release) Act, 1988, parole can be granted for admission in school/colleges/professional institutions of the dependents of the convict. Since the brother of the petitioner is dead and petitioner being the only able bodied male member in the family has to arrange for the education of the children of his brother. It cannot be said that children are not dependent upon him. Particularly when the parents of the petitioner are old and infirm person.

It being so, the impugned order dated 4.1.2017, passed by Commissioner Ambala, Division (Annexure A-1) is hereby quashed and the petitioner is ordered to be released on parole for three weeks to arrange for the education of the children of his deceased-brother and meet his old aged parents on furnishing adequate surety to the satisfaction of the District Magistrate concerned.

Disposed of.

(KULDIP SINGH)
JUDGE

19.12.2018
preeti

Whether speaking / reasoned
Whether Reportable:

Yes
No