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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/11/2018 16:53
I attest to the accuracy and
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CWP-26399-2018 (O/M)
Date of decision : 12.11.2018

Sumit Petitioner (s)
Versus
State of Haryana and others Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ravinder Bangar, Advocate,
for petitioner.

Mr. Amrik Narwal, DAG Haryana.

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KULDIP SINGH, J. (ORAL)

Reply by way of affidavit of Jai Kishan Chhillar,
Superintendent, District Jail, Gurugram, on behalf of respondents No. 1 to 5
filed in Court today and same is taken on record.

Heard.

Petitioner was convicted in FIR No. 446, dated 21.11.2013,
registered under Sections 302, 307, 323, 324, 452, 427, 148 IPC and under
Section 25 of Arms Act, 1959, at Police Station Badshahpur, Gurugram.
His appeal (CRA-D-903-DB-2017) is pending before this Court. Petitioner
is stated to have undergone actual custody of more than four years.
Petitioner has applied for agriculture parole for six weeks (42 days), vide
application dated 26.9.2018 (Annexure-P-2). The parole was for harvesting
millet crop and sowing mustard crop.

State has filed reply by way of affidavit of Jai Kishan Chhillar,
Superintendent, District Jail, Gurugram, on behalf of respondents No. 1 to
5, which shows that Superintendent, District Jail, Gurugram, has declined
said application of petitioner, vide order dated 20.10.2018 (Annexure-R-7),
on two grounds, first is that a mobile phone was recovered from petitioner

and second is that petitioner quarreled with other co-prisoners and committed jail offence, for which one month punishment of separate confinement was awarded. Both confinements were upheld after judicial appraisal by learned District and Sessions Judge, Gurugram.

The learned counsel for petitioner contends that matter is to be ultimately decided by Commissioner, Gurugram Division, Gurugram. Superintendent, District Jail, Gurugram, is merely to forward application of petitioner to concerned authority.

The learned counsel for petitioner has relied upon a Division Bench judgment of this Court in *Gurdeep Singh Versus State of Haryana and others* (arising out of CRWP-1374-2017, decided on 7.12.2017), wherein it was held that mere recovery of a mobile phone is no ground to decline agriculture parole.

In this case, petitioner has already undergone punishment for recovery of mobile phone and punishment for quarreling with other co-prisoners. Petitioner cannot be punished twice for same offence.

It being so, impugned order dated 20.10.2018 (Annexure-R-7), passed by Superintendent, District Prison, Gurugram, is set aside and he is directed to forward the case of petitioner to concerned authority, which shall take final decision within three weeks from the date of receipt of certified copy of this order, ignoring the ground of recovery of a mobile phone and punishment awarded for quarreling with co-prisoners. Petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

12.11.2018
sjks

Whether speaking order	:	Yes	/	No
Whether reportable	:	Yes	/	No