

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.3921 of 2018
Date of Decision: 17.04.2018

Kulbir

. Petitioner

Vs.

State of Haryana and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Harish Nain, Advocate,
for the petitioner.

Mr.Saurabh Mohunta, DAG, Haryana.

RAKESH KUMAR JAIN, J.

The petitioner has prayed for parole for six weeks to repair his house.

In brief, the petitioner was convicted and sentenced to undergo for a period of 10 years imprisonment in a case registered vide FIR No.85 dated 3.5.2006 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [for short 'the NDPS Act'] at P.S. Garhi, District Jind and is lodged in District Jail, Jind. He has made a prayer for his release on parole for a period of six weeks for repair of his house and in this regard appended a certificate issued by the Gram Panchayat.

After notice, the respondents have filed their reply in which it is averred that the petitioner was convicted by the Special Court, Jind on 27.8.2007. His appeal bearing CRA-S-145-SB of 2003 has been disposed of by this Court on 22.01.2009. He was released on parole for four weeks on 23.3.2010 but he did not surrender on the date specified and was arrested on

14.9.2014 by the Punjab Police and was thus categorized as a parole absconder from 21.4.2010 to 14.9.2014. One more FIR No.415 dated 20.7.2012 under Sections 8 & 9 of the Parole Act, 2012 at P.S. City Jind has also been registered against the petitioner for absconding the parole in which he has been acquitted by the CJM, Jind on 4.4.2015. The petitioner was also convicted and sentenced to the period already undergone (for an offence committed during the parole absconding period) in a case registered vide FIR No.179 dated 14.9.2014 under Section 15 of the NDPS Act at Police Station Dhuri, District Sangrur (Punjab) vide order dated 7.8.2015 passed by the Special Court, Sangrur. The petitioner has thus been categorized as hardcore prisoner in terms of Section 2(aa)(v) of the Parole Act as amended in 2012 as he had failed to surrender himself before 31.4.2010 when he was released on parole for four weeks from 23.3.2010 to 21.4.2010. Section 2(aa)(v) of the Parole Act, 2012 read as under: -

“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 period for which he was released under this Act.”

It is also alleged that as per Section 5(A)(2) of the Parole Act 2012, the petitioner has not completed 5 years of sentence.

In order to find out as to whether there is really a requirement for the repair of the house as stated by the petitioner, counsel for the State was asked to verify the same. The Deputy Commissioner, Sangrur has sent a letter No. 1835/Peshi DC dated 6.3.2018 to the Assistant Advocate

General, Punjab in which he has mentioned that the house of the petitioner was inspected by the SDM, Dhuri along with Harcharan Singh, A.E., PWD, B&R, Malerkotla, concerned Patwari, Village Panchayat Members and others persons of the village. The Department of PWD (B&R) prepared the site plan and submitted the report regarding condition of the house of which photographs were also taken. After inspection of the house, it has been reported that the roof of the house was made of RCC and it was in good condition, there was only a slight crack in only one wall of the house otherwise the entire house is in good condition and needs no repair. The Gram Panchayat also stated that they had not recommended the release of the petitioner and gave it in writing on the pad of the Gram Panchayat in this regard. The letter dated 6.3.2018 of the Deputy Commissioner, Sangrur along with the documents and photographs is also taken on record.

After hearing learned counsel for the parties and taking into consideration the facts and circumstances, I am of the considered opinion that the petitioner has failed to make out a case for the purpose of his release on parole in terms of Section 3(1)(d) of the Act for the purpose of repair of his house as on inspection of the house conducted by the SDM, Dhuri with the Assistant Engineer, PWD, B&R, Malerkotla and other persons of the Village much less the Panchayat members, it has been found that there is hardly any repair required of the house which is found to be in a good condition. The petitioner has thus set up a false case for the purpose of seeking his parole. His past conduct is also not good as he had absconded the parole granted to him for four weeks in the year 2010 and was arrested by the Punjab Police on 14.9.2014.

Thus, in view of the aforesaid facts and circumstances, I do not find any reason to interfere in the present petition for the purpose of grant of parole to the petitioner, hence the same is hereby dismissed though without any order as to costs.

17.04.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*