

240
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5408-2018 (O&M)
Date of decision:30.11.2018

Ram Kishan @ Nanhar

....Petitioner

versus

State of Haryana and another

....Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

Present: Mr. B.S. Jatana, Advocate
for the petitioner.

Mr. Nishchal Mann, DAG, Haryana.

Kuldip Singh, J. (Oral)

Custody certificate on behalf of the petitioner along with Notification dated 18.09.2015 of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2015, has been filed by learned State counsel in Court today and the same is taken on record.

The petitioner has sought quashing of impugned order dated 15.04.2017 (Annexure P-1), whereby, respondent No.2 declined to release the petitioner on parole for house repair on the ground that the petitioner is hardcore criminal and he has not completed five years of sentence excluding the under trial period and also on the ground that he has jumped the parole for 26 days.

In the reply, State has taken a stand that the petitioner is hardcore

criminal since he jumped parole for more than 10 days.

Learned State counsel has also taken the plea that under Section 5A of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2014, the petitioner has to undergo 05 years of sentence in such cases excluding the under trial period and should not have been awarded minor or major penalty by the Superintendent Jail as judicially appraised by the concerned District and Sessions Judge. Today, the State counsel has filed a copy of amended “Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2015,” and the same is taken on record. Vide which, Haryana Good Conduct Prisoners (Temporary Release) Act 1988, was further amended and Subsection (2) of Section 5(A) was substituted as under:-

“(2) Notwithstanding anything contained in subsection (1), a convicted hardcore prisoner who has not been awarded death penalty, may be entitled for temporary release or furlough only if he has completed his five years imprisonment and has not been awarded any major punishment by the Superintendent of Jail as judicially appraised by the concerned District and Sessions Judge.”

A perusal of the above mentioned amendment shows that now five years imprisonment is to be considered and it is no more mandatory that the period during trial is to be excluded. State has also filed custody certificate, which shows that the petitioner has undergone 01 year, 04 months & 01 day under trial and 08 years, 09 months & 16 days after conviction. It being so, the petitioner is covered under the amended policy.

As such, the impugned order dated 15.04.2017 (Annexure P-1), passed by Superintendent of Jail, Central Jail-I, Hisar, is hereby quashed. There is no other objection to the release of the petitioner as such the petitioner is ordered to be released on parole for the purpose of house repair for a period of four weeks on furnishing adequate security before the District Magistrate concerned.

Accordingly, the petition is allowed.

(KULDIP SINGH)
JUDGE

30.11.2018
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Whether speaking/ reasoned:	Yes
Whether Reportable:	No