

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

CWP No.7651 of 2018

Date of decision : 03.04.2018

Harish

.....Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. A. S. Trikha, Advocate for the petitioner.

Mr. Rajesh K. Sheoran, Addl. A. G., Haryana.

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DAYA CHAUDHARY, J. (Oral)

The prayer in the present petition is for issuance of a writ in the nature of mandamus directing the respondents to grant benefit of parole to the petitioner for performing certain rituals after death of his father as per Hindu traditions, which are to be performed on 23.03.2018 at the time of Teharvin (13th day).

Learned counsel for the petitioner submits that the petitioner was convicted and sentenced to undergo rigorous imprisonment in the year 2010. Against judgment of conviction and order of sentence, Criminal Appeal No.D-1186-DB of 2010 is pending before this Court. Petitioner submitted an application along with Panchayatnama to the Superintendent of District Jail, Jhajjar for allowing him emergency parole but no action has been taken thereupon.

Notice of motion was issued in the case on 28.03.2018 to the respondents with a direction to file reply.

Learned State counsel has filed reply in the Court today and the same is taken on record.

Learned State counsel submits that six criminal cases are pending against the petitioner and in other six cases he has been acquitted. Learned State counsel further submits that the petitioner was released on parole on 16.07.2016 for six weeks for agricultural purpose and was directed to surrender on 28.08.2016 but he did not surrender well in time and absconded during parole. Thereafter, he was arrested by the local police after a period of more than five months. Learned State counsel also submits that as per provisions of Section 10 (ii) of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Rules 2007, the petitioner is not entitled to parole of a period of two years. As per said provisions, in case any convict overstays 30 days or more of his parole/furlough, his/her case shall not be entertained by the Superintendent of Jail earlier than two years from the date of his surrender/arrest. Learned State counsel further submits that no application was submitted and nothing is pending. Petitioner is not eligible for parole as per the Rules and moreover, the period of Teharvin (13th day), for which his presence is required has already expired. It has also been mentioned in the reply that his elder brother is at home to perform all rites and rituals if required.

Heard arguments of learned counsel for the parties and have also perused the documents on the file.

Admittedly, the petitioner was released on parole earlier but he did not surrender well in time and thereafter, he was arrested after a period of more than five months. Meaning thereby, the petitioner jumped parole and remained absent for a period of more than five months. The concession of premature release/parole is given to convicts with a view to reclaim them and to give them an opportunity to rehabilitate themselves in the society again but in case the conduct of the convict is otherwise despite confinement in jail and he misuses the concession of parole, then he is not entitled for parole for a period of two years.

In view of the facts as mentioned above and after hearing arguments, there is no substance in the arguments raised by learned counsel for the petitioner and petitioner is not entitled to parole as not only he has misused the earlier concession granted to him but the date of Teharvin (13th day), for which the parole is required, has already expired.

Accordingly, the present petition is hereby dismissed.

03.04.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No