

204**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP No. 8565 of 2018
Decided on:12.04.2018****Rakesh****.....Petitioner****versus****State of Haryana and others****.....Respondent****Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT****Present:** Mr. Ravinder Bangar, Advocate
for the petitioner.

Mr. P.P.Chahar, DAG, Haryana.

Rajbir Sehrawat, J.(Oral)

This is a petition praying for a direction to release the petitioner on emergency parole for four weeks to arrange the admission of the son of the petitioner in academic institution/school.

As per the averments, the petitioner has been convicted and sentenced for life imprisonment in FIR No. 48 dated 14.05.2011 and he has filed an appeal i.e. CRA-D-761-DB of 2016; which is admitted and pending before this Court. It is further pleaded that the admission of the son of petitioner is due in Class VII in the month of April, 2018. The petitioner has to arrange the money for school admission, books, school uniform and other necessary things. The wife of the petitioner approached respondent No. 3; through a representation dated 23.03.2018, sent through a registered post, to grant the petitioner four weeks' parole for admission of son of the petitioner. But respondent No. 3 did not take any action till date.

Notice of motion was issued in the case. Learned State counsel

has filed reply by way of a short affidavit of the Deputy Superintendent Jail, District Jail, Yamuna Nagar. In this reply, the averments regarding conviction and sentence are not disputed. However, it is mentioned that there are four FIRs lodged against the petitioner; while in custody; for possessing mobile phone in jail. Regarding admission of the son of the petitioner to Class VII, although nothing is mentioned in the reply as such, however, learned State counsel, on instructions from ASI Manvir, submits that the factum of the admission of the son of the petitioner to Class VII has been verified and it has been found that the son of the petitioner has passed Class VI and he intends to get the admission in Sarvodaya Coaching Campaign for Class VII.

Learned counsel for the petitioner has relied upon the judgment of Division Bench of this Court; in case **CRWP No. 1374 of 2017** decided on 07.12.2017; to contend that the mere possession of the mobile phone in jail, cannot be the ground to deny the parole when there is no allegation that the convict misused the phone either to blackmail some one or for demanding ransom or he ever used that mobile for any other kind of complicity in any other crime, while in Jail. In the present case also, there is no allegations of the mobile phone having been used by the petitioner in connection with any complicity in any crime while in custody in jail. Hence, mere pendency of the FIR against the petitioner for possessing the mobile phone inside the jail would not stand in the way of the petitioner for availing of parole; as per the law.

In view of the above, the present petition is allowed. Respondent No. 4 is directed to consider the case of the petitioner to release him on parole for four weeks; as prayed by the petitioner. However, it is

above said affidavit shall not be taken into consideration. The case of the petitioner shall be considered and decided, independently, in accordance with law, within two weeks.

The petition is disposed of .

Order be given *Dasti*.

12th April, 2018
shabha

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned - *Yes*
Whether reportable - *Yes*