

CWP No.9458 of 2018

[1]

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

**CWP No.9458 of 2018
Date of decision:03.05.2018**

Dharambir

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

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

Mr. Saurabh Mohunta, DAG, Haryana.

Rakesh Kumar Jain, J.

The petitioner, a life convict, presently lodged in District Jail, Yamuna Nagar, has prayed for 4 weeks' agricultural parole for the purpose of harvesting his wheat crop.

At the time of issuance of notice in the present petition, learned State counsel was directed to file report of the Tehsildar, Chhachhraula, District Yamuna Nagar as to whether the petitioner requires parole for harvesting his crop or the same has already been harvested.

In response thereto, learned State counsel has filed short reply along with verification report in vernacular, in which it is mentioned that there is no agricultural land in the name of the petitioner instead it is in the name of the mother of the petitioner, namely, Angrejo Devi, in which wheat crop sown by the petitioner is yet to be harvested.

Thus, it is clear that the wheat crop sown by the petitioner is still to be harvested. However, counsel for the respondents has submitted that the petitioner falls within the definition of hardcore prisoner in view of Section 2(aa)(iv) of the Haryana Good Conduct Prisoners (Temporary Release) Amended Act, 2013 (hereinafter referred to as the “Act”) because he was found in possession of cell phone/SIM cards, therefore, he is not entitled for grant of parole at this stage. It is also submitted that for the said offence, FIR No.44 dated 28.01.2016, under Section 42 of the Prisons Act, 1894 has been registered at Police Station City Jagadhri, which is pending trial.

Learned State counsel has been fair enough while reading the FIR in the Court in which it is mentioned that the cell phone/SIM cards were recovered from the petitioner during his “Deyodhi Talashi”. The allegation in the FIR is that on 31.07.2012, certain persons named in the FIR came to meet the petitioner and at that time, they had given the cell phone/SIM cards to the petitioner, which were recovered from him at the time of “Deyodhi Talashi”.

In this regard, learned counsel for the petitioner has submitted that as per Section 2(aa)(iv) of the Act the hardcore prisoner would be a person who has been detected of using cell phone or in possession of cell phone/SIM card inside the jail premises. It is submitted that the petitioner has not been found to be in possession of the cell phone/SIM cards inside the jail premises, rather the same were recovered from him at the time of “Deyodhi Talashi”.

I have found substance in the argument of the learned counsel for the petitioner and hence, it is ordered that the petitioner cannot be termed to be a hardcore prisoner in terms of Section 2(aa)(iv) of the Act for the purpose of denying the benefit of parole at this stage.

Accordingly, the present petition is hereby allowed with a direction to the respondents to release the petitioner immediately on 4 weeks' agricultural parole subject to his furnishing requisite bonds to the satisfaction of the District Magistrate concerned.

May 03, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned	:	Yes/No
Whether reportable	:	Yes/No