

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

**CWP-31459-2018 (O&M)
Date of decision : 20.12.2018**

Kewal Krishan

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. K.S. Sidhu, Advocate for the petitioner.

Mr. Sandeep Vashisth, DAG, Haryana.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Heard.

Learned counsel for the petitioner seeks quashing of the impugned order dated 22.10.2018 (Annexure P-17), vide which 08 weeks emergency parole on medical ground of the petitioner was rejected.

It comes out that petitioner has been convicted and sentenced to undergo rigorous imprisonment for a period of four years in case FIR No. 375 dated 9.10.2007, under Sections 148, 149, 307, 323, 325 and 508 of the Indian Penal Code, registered at P.S. Pehowa, District Kurukshetra, vide judgment of conviction and order of sentence passed by learned Sessions, Kurukshetra.

Petitioner claims that he is 67 years old and suffered heart attack twice during the jail custody. He was taken to PGIMER Chandigarh on 22.7.2016 onwards. He was treated there and his followup is being done.

Suffice to say that lastly on 9.11.2018, he was taken to PGIMER, Chandigarh and the Doctor asked the jail authorities to deposit an amount of Rs. 6,000/- but the same has not been deposited. It is contended that due to non deposit of the said amount, open heart surgery could not be performed.

State has filed the written statement of Dr. Sanjay Singh, Superintendent, District Jail, Kurukshetra. The disease of the petitioner is not denied. However, it is stated that the petitioner has already availed parole several times on medical grounds since 2016. Relevant extract from the reply is reproduced as under: -

'6. That the petitioner earlier has availed 03 weeks parole on medical ground w.e.f 17.9.2016 to 9.10.2016 by the order of the Hon'ble High Court/Chandigarh passed in Cr. WP No. 1035 of 2016. At that time, the petitioner was advice C.A.B.G. (Coronary Artery Bypass Grafting) by the Cardiologist, PGIMER/Chandigarh. In continuation 04 weeks parole was granted w.e.f. 25.10.2016 to 23.11.2016 by order of the Hon'ble High Court/Chandigarh, passed in Cr. W.P. No. 1370 of 2016. Again, the petitioner availed 06 weeks parole to undergo C.A.B.G. w.e.f. 07.02.2017 to 22.3.2017 by the order of the Hon'ble High Court/Chandigarh passed in Cr. W.P. 1616 of 2016. Apart from this, the petitioner has availed 06 weeks Agricultural Parole w.e.f. 05.05.2017 to 17.6.2017 and 04 weeks House Repair Parole w.e.f. 24.7.2017 to 22.8.2017.

7. That, the said convict/petitioner further availed 08 weeks parole to underwent C.A.B.G. w.e.f. 22.11.2017 to 15.1.2018 by the order of the Hon'ble High Court/Chandigarh, passed in Cr. W.P. No. 1328 of 2017 and 08 weeks parole to underwent C.A.B.G. w.e.f. 09.04.2018 to 05.06.2018 by the order of the Hon'ble Court, passed in C.W.P. No. 4251 of 2018. Apart from this, the petitioner has also availed 06 weeks Agricultural

Parole w.e.f. 04.07.2018 to 16.8.2018 in the current calender-year.'

It is further stated in the reply that petitioner availed parole on medical grounds four times from the year 2016 till January 2018. Parole was availed from 3 weeks to 8 weeks but he has not undergone the heart by pass surgery for the reasons best known to him. In addition to this, he has availed six weeks parole from 5.5.2017 to 17.6.2017 and four weeks house repair parole from 24.7.2017 to 22.8.2017. He also availed six weeks agricultural parole from 4.7.2018 to 16.8.2018 but he has not opted to undergo with the heart bye pass surgery.

I am of the view that it is clear that on the excuse of heart bypass surgery, petitioner has availed parole for four times. He is taking undue benefit of doubt on account of his poor health. The only grievance of the petitioner is that the jail authorities are not depositing the fee of the hospital authorities.

It being so, parole of the petitioner on medical grounds is declined. However, jail authorities are directed to deposit the fee of Rs. 6,000/- with PGIMER and arrange for the treatment of the petitioner under the police custody.

Needful be done within one week.

Disposed of.

(KULDIP SINGH)
JUDGE

20.12.2018

preeti

Whether speaking / reasoned
Whether Reportable:

Yes/No
Yes/No