

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

CWP-1648-2019 (O&M)

Date of decision : 28.5.2019

Gurdeep Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

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

Mr. Sandeep Vashisth, DAG, Haryana.

KULDIP SINGH, J.

Heard.

Petitioner has invoked the writ jurisdiction of this Court under Article 226/227 of the Constitution of India for quashing of the order dated 15.1.2019 (Annexure P-1), passed by Superintendent of Prison, District Prison, Yamunanagar vide which application for grant of parole moved by the petitioner was declined on the ground that petitioner is a hard core prisoner and a mobile phone was recovered from him regarding which a criminal case was registered against him.

State has filed the reply by way of affidavit of Dr. Rajeev, Deputy Superintendent of Prison, District Prison, Yamunanagar on behalf of respondents No. 1 to 5. The same is taken on record. It is stated that the petitioner is a hard core prisoner and a mobile phone was recovered from him. He has not completed five years sentence as required under law. Therefore, the parole has been opposed by the State.

Learned counsel for the petitioner has produced the copy of the judgment dated 9.4.2019, passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri vide which appeal filed by the petitioner was accepted and he has been acquitted for the offence in case FIR No. 363 dated 17.6.2016, under Section 42-A of the Prisons Act, 1894, registered at P.S. City Jagadhri.

I am of the view that once the petitioner has been acquitted regarding the charges of recovery of mobile phone, the ground claimed by the State will go and petitioner cannot be treated as a hard core prisoner.

It being so, impugned order dated 15.1.2019 (Annexure P-1), passed by Superintendent of Prison, District Prison, Yamunanagar is set aside and the petitioner is ordered to be released on parole for a period of four weeks on furnishing of adequate surety bonds to the satisfaction of the District Magistrate, concerned.

Petition stands allowed accordingly.

(KULDIP SINGH)
JUDGE

28.5.2019

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Whether speaking / reasoned
Whether Reportable:

Yes
No