

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 3108-2019(O&M)

Date of decision: 09.04.2019

Hari Parkash @ Ballu

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.G.C.Shahpuri, Advocate for the petitioner
Mr.Sandeep Vashisht, DAG Haryana

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Petitioner has impugned the order dated 7.1.2019 passed by respondent no.2, namely, Commissioner, Rohtak Division, Rohtak, vide which, his prayer for parole for agricultural purpose has been declined. Petitioner further seeks mandamus for directing the respondents to grant him six weeks parole under Section 3(1)(C) Haryana Good Conduct Prisoners (Temporary Release) Act, 1988.

Admittedly, the petitioner was convicted in a murder case. His appeal has been dismissed. He applied for parole, which was declined by the authorities. Against the said order, the petitioner approached this Court by way of CWP No.4518 of 2018, which was disposed of on 15.12.2018, making the following observations:-

Parole of the petitioner has been rejected on the ground that he had jumped the parole twice as stated above and that his father

is having agriculture land, there are other family members who can cultivate the land. As per Haryana Good Conduct Prisoner's (Temporary Release) Act, 1988, if convict jumps the parole, he is held to be a hardcore criminal and not entitled for parole for next five years. Counsel for the petitioner states that since parole was jumped in the year 2012, as such the period of five years has already elapsed. Another ground in the impugned order is that there is an apprehension of breach of peace in the society. The said ground is without any basis as it will lie (sic) if the petitioner commit any offence during parole which disturb the peace of the society.

The impugned order dated 26.9.2017 was set aside and the Commissioner, Gurugram was directed to reconsider the case in the light of the observations made by the Court and pass a fresh order. Now, the fresh impugned order dated 7.1.2019 (Annexure P-9) has been passed.

I have heard learned counsel for the parties and have carefully gone through the file.

A perusal of the impugned order shows that the Commissioner has again considered the same grounds that the petitioner had jumped the parole in the year 2012; that he will abscond and there is apprehension of breach of public peace. The said grounds were earlier dealt with and negated by this Court. It also comes out that the District Magistrate, Gurugram vide letter dated 4.1.2018 (Annexure P-7) had recommended the parole case of the petitioner. Therefore, it is evident that the Commissioner, Rohtak Division, Rohtak has not considered the observations made by this Court to pass the impugned order.

As such, the impugned order dated 7.1.2019 (Annexure P-9) is hereby quashed and it is held that the petitioner is entitled to parole for agricultural purpose.

Learned State counsel has argued that Model Code of Conduct is in operation and as per instructions of the Election Commission, the convict cannot be released on parole except in very exceptional case.

I am of the view that the agricultural operations are on and after 23.5.2019, agricultural operations will be over and the purpose of parole will be frustrated. Therefore, the petitioner is to be released on parole with a direction to surrender back well before the date of elections. Elections in Haryana are fixed for 12.5.2019. Therefore, the petitioner is ordered to be released on parole immediately on furnishing adequate surety to the satisfaction of the District Magistrate concerned with a direction to surrender back in the jail on 11.5.2019.

Petition is allowed accordingly.

09.04.2019

gk

Whether speaking/ reasoned:

Whether Reportable:

**(Kuldip Singh)
Judge**

Yes

No