

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

CWP-3715-2019

Date of Decision: 19.08.2019

Satish

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present : Mr. Sanjeev Majra, Advocate
for the petitioner.

Mr. Sandeep Vashisht, D.A.G. Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. Through this petition, the petitioner has sought for a writ in the nature of certiorari for quashing of the speaking order dated 07.01.2019 passed by the Commissioner, Hissar Division Hissar, whereby benefit of parole to the petitioner has been denied so also for issuance of a writ in the nature of mandamus directing the respondents/State to grant the benefit of parole to the petitioner for a period of four weeks to enable him to repair his house.

2. Learned counsel for the petitioner submits that the residential house of the petitioner is in very poor condition and it may fall at any time and it requires urgent repairs. It is further submitted that in the family of the petitioner his aged mother, wife and a minor son are there but they are not capable of carrying out work of repair. It is also brought to the notice of this Court that earlier also the petitioner was granted the benefit of parole and he surrendered in time.

3. On the other hand, learned State counsel while opposing the prayer made by the learned counsel for the petitioner has submitted that a

mobile phone with Sim Card was recovered from the petitioner in jail and if a convict is caught using or in possession of a mobile phone inside the jail premises he would fall in the category of “hardcore” criminal. Hence, benefit of parole should not be granted to the petitioner.

4. Having heard learned counsel for the parties, I am of the view that this is not a case in which parole should be denied. The only ground taken is that a mobile phone was recovered from the petitioner and, therefore, he comes under the category of a ‘hardcore prisoner’. However, it is not disputed that the petitioner was earlier granted the benefit of parole and furlough several times and he surrendered in time.

5. The learned counsel for petitioner has relied upon a Division Bench judgment of this Court in Gurdeep Singh Versus State of Haryana and others, 2018(4) PLR 77, decided on 7.12.2017, wherein it is held as under:-

“In this backdrop, it is difficult to accept that the mere recovery of mobile phone from an inmate against whom there is not even a whisper that he ever misused the phone either to blackmail some one or for demanding ransom or he involved himself in any other nature of crime, would be sufficient to categorise him as a 'hardcore' prisoner. It is only in a case where the inmate is found to have misused the mobile facility for committing another crime while inside the jail, that he should be put into the category of 'hardcore criminals' and be deprived of his statutory right of parole. The petitioner, in the absence of any such allegation, does not fall in that exceptional category.”

6. In view of the above, the petition is allowed. The impugned order is quashed. The petitioner is granted parole for four weeks from the date of release to the satisfaction of the District Magistrate concerned, who is further directed to impose such conditions as may be required to secure the presence of the petitioner in the jail after the period of parole, is over and done with.

19.08.2019
rajeev

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No