

CWP-6369-2019

[1]

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

**CWP No.6369 of 2019 (O&M)
Date of decision: March 13, 2019**

Puran

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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

Mr. Neeraj Poswal, AAG, Haryana.

HARINDER SINGH SIDHU, J.

This petition has been filed praying for directions to quash the order of the Superintendent, District Jail, Rohtak dated 1.3.2019 (Annexure P-1), whereby, the application of the petitioner for release on parole has been rejected. It has also been prayed that the respondents be directed to release the petitioner on parole.

The petitioner is undergoing rigorous imprisonment for life in case FIR No.108 dated 16.4.2008 under Sections 302, etc. IPC, Police Station Sadar Bahadurgarh, District Jhajjar after his conviction by the Trial Court. His appeal is pending adjudication before this Court.

The petitioner submitted an application to the Superintendent, District Jail, Rohtak for grant of parole to attend the funeral of his brother Sunil, who expired on 24.2.2019 during treatment at PGIMS, Rohtak. The request of the petitioner was rejected by the Superintendent, District Jail, Rohtak stating that

since the petitioner has not completed one year of sentence after conviction, he is not entitled to parole.

Notice of motion was issued. A short reply in the form of affidavit of Sewa Singh, Deputy Superintendent, District Jail, Rohtak has been filed stating that as per Rule 4(1) of the Haryana Good Conduct Prisoner (Temporary Release) Rules 2007 a prisoner shall be entitled to apply for parole only after he has completed one year of his imprisonment after conviction and has earned his annual good conduct remission under the Act. It has also been stated that though the petitioner has completed one year of imprisonment after his conviction, but has not earned his first Annual Good Conduct Remission, therefore, he is not entitled for parole. It is also stated that the petitioner will receive his first Annual Good Conduct Remission on 01.04.2019. The reply further states that Sunil, brother of the petitioner was also undergoing sentence in the jail and he expired on 24.2.2019 during treatment at PGIMS Rohtak.

The reliance by the respondents on Rule 4(1) of the 2007 Rules to deny parole to the petitioner cannot sustain. A Division Bench of this Court in CRWP No.677 of 2014 '**Deepak Vs. State of Haryana and others** (decided on 03.06.2014), held that the restriction of one year of imprisonment after conviction to be eligible for temporary release had been imposed by Rule 4 of the 2007 Rules and it could not supersede the substantive provisions of the Act, which contained no such restriction. To the same affect is Division Bench judgment of this Court in **Aman alias Kala vs. State of Haryana and others**, 2017 (3) RCR (Crl) 279.

There is no other objection of the respondents to deny parole to the petitioner.

Accordingly, this petition is allowed. The impugned order is set aside.

The respondents are directed to release the petitioner on parole for a period of three weeks subject to his furnishing bond/ surety to the satisfaction of the District Magistrate/ Competent Authority. The petitioner shall surrender before the Jail authorities on the expiry of three weeks of his release.

March 13, 2019

(HARINDER SINGH SIDHU)
JUDGE

gian

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No