

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

CWP-10265 of 2019

Date of Decision: 20.08.2019

Ajay

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present : Mr.Sumit Sangwan, Advocate
for the petitioner.

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

RAJIV NARAIN RAINA, J. (Oral)

1. Reply by way of affidavit of the Deputy Superintendent, District Jail, Rohtak filed by the State in Court today is taken on record. Copy thereof stands supplied to learned counsel for the petitioner. He has gone through the same.

2. The petitioner has impugned order dated 29.03.2019 (Annexure P-1), passed by the Commissioner, Rohtak Division, Rohtak, vide which the prayer of the petitioner for grant of benefit of parole was declined.

3. The petitioner was convicted and sentenced to undergo rigorous imprisonment for 14 years under Section 376 & Section 4 of the POSCO Act in case FIR No.274 dated 09.09.2013 registered at Police Station, Kalanaur, District Rohtak.

4. Learned counsel for the petitioner submits that two minor children of the petitioner are studying in primary classes and for their admission in the next session he requires the benefit of parole so that he may be able to arrange funds for the admission of his children.

5. The impugned order dated 29.03.2019 shows that the case of

the petitioner was returned on the ground that Model Code of Conduct has come into force on announcement of dates of the General Elections, 2019. It was observed in the impugned order that the case of the petitioner be submitted afresh after the Code of Conduct is over. On this ground, parole case of the petitioner was declined by respondent No.2. In reply also the ground for rejection of request of the petitioner has been reiterated. However, it is submitted in the reply that an application for grant of furlough submitted by the petitioner is pending consideration before the District Magistrate, Charkhi Dadri and the Commissioner, Rohtak Division, Rohtak.

6. Having heard learned counsel for the parties, I am of the view that this is not a case in which parole should be denied to the petitioner. The parole case of the petitioner was rejected on a technical ground. It is submitted that the petitioner had made an application for grant of parole on 08.01.2019 but no action was taken till 29.03.2019 when the impugned order was passed. Model Code of Conduct came into force on 10.03.2019. In reply, it is submitted that the petitioner comes under the category of a 'Hardcore Prisoner.' But it is not reported in the reply that the release of the petitioner on parole would involve security of the State or danger to society. There is no apprehension that the petitioner will abscond. It is also not reported that conduct of the petitioner is not satisfactory in the jail. Moreover, the petitioner is in custody since 11.09.2013 and has already undergone a total period of custody about 6 years, out of which about 4 years and 5 months is after conviction period.

7. In view of the above, the petition is allowed. The impugned order dated 29.03.2019 (P-1) 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

are required to secure the presence of the petitioner in jail after the period of parole, is over and done with.

20.08.2019
sandeep

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No