

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

CWP-18744-2019

Date of Decision: 19.08.2019

Deepak

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM : HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present : Mr. Saurabh Dalal, Advocate
for the petitioner.

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

RAJIV NARAIN RAINA, J. (Oral)

1. Written statement 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. Through this petition, the petitioner has sought a writ in the nature of certiorari for quashing the order dated 05.06.2019 (P-2) passed by respondent No.2 whereby benefit of parole to the petitioner has been denied so also it is prayed that a writ of mandamus be issued 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.

3. The petitioner was convicted and sentenced to undergo rigorous imprisonment for 10 years under Sections 376(2) (g) IPC in case FIR No.115 dated 24.03.2011 registered at Police Station, Sadar Bahadurgarh.

4. Learned counsel for the petitioner submits that the house of the petitioner is in a dilapidated condition and requires urgent repair. In support of his contention, learned counsel for the petitioner has produced some

photographs of his house.

5. On the other hand, learned State counsel while opposing the prayer made by the learned counsel for the petitioner argues that since the petitioner has committed a heinous crime of rape and falls under the category of 'Hardcore Prisoner', therefore, benefit of parole should not be granted to him.

6. Perusal of the impugned order shows that the application of the petitioner has been rejected on the ground that the petitioner was involved in heinous crime and he may violate the terms of parole and disturb the peace of area in case of temporary release. As far as repair of the house is concerned, it is submitted that members of his family are capable of getting the house repaired. In reply also the grounds for rejection of request of the petitioner have been reiterated. However, in compliance of order dated 12.07.2019, the PWD department on spot inspection has submitted its report, in which it is stated as under:-

"That the House needs Repair like Settlements of wall & Floor, Cracks are developed in walls and Maximum cement plaster has been damaged for this repair it will take some time."

Further on verification by the Station House Officer, P.S. Badli, it transpires that the petitioner and his elder brother have separate houses in the village and the elder brother is living separately. Petitioner's house is in a bad condition which requires immanent repairs. The Officer has further verified that the residents of the village have no objection if the petitioner is released on parole.

7. 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 for repair of his house. The only ground taken is that the petitioner is involved

in a heinous crime and he may abscond and let alone that the members of his family are capable of getting the house repaired. The likelihood of absconding while on parole would not be a sufficient ground to decline temporary release on parole as mere likelihood of committing crime is not to be taken as apprehension of a threat to the security of the State or the maintenance of public order. No doubt, the petitioner has been convicted in a heinous crime of rape. But at the same time it is not disputed that the petitioner was earlier granted the benefit of agricultural parole for the period 06.06.2018 to 02.07.2018 and he surrendered in time after availing of parole period.

8. In view of the above, the petition is allowed. The impugned order dated 05.06.2019 (P-2) is quashed. The petitioner is ordered to be 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 reasonable conditions as are required to secure the presence of the petitioner in jail after the period of parole, is over and done with.

19.08.2019

rajeev

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes/No