

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

CM No.17455 of 2019 in/and
CWP No.20899 of 2019 (O&M)
Date of Decision:20.11.2019

Bhal Singh @ Sonu ... Petitioner

Versus

State of Haryana and others ... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Pawan Kumar Hooda, Advocate for the petitioner

Mr.Saurabh Mohunta, DAG,Haryana

RAJIV NARAIN RAINA, J. (Oral)

1. This petition has been filed for quashing the impugned order dated 3.1.2019 (Annex. P-2) passed by respondent no.4 whereby application for grant of parole has been rejected on the ground that he is a hardcore prisoner. Notice was issued to the State and reply has been filed.

2. However, during the pendency of this petition, the petitioner has filed CM No.17455 of 2019 stating that the brother of the petitioner has expired on 5.11.2019. This application carries a prayer for parole on this fresh additional ground. Mr.Hooda submits that a copy of this application was sent to the jail authorities for their consideration, but no action has been taken so far.

3. Notice of this application. Mr.Mohunta accepts notice.

4. I have heard learned counsel for the parties and perused the paper-book.

5. In case the petitioner has a case for grant of agricultural

opportunity to mourn with the family and to attend the last rites and ceremonies.

6. The petitioner has been serving sentence for murder and has been behind bars for more than 3 years as on 13.8.2019. His appeal has been dismissed by this Court in 2013. He has been granted concessions of temporary release either by way of parole and furlough at least 4-5 times and surrendered before the jail all the times except once in 2015 when he did not surrender in time and absconded for 1 year and 11 days. A criminal case was filed against the petitioner for this dereliction vide FIR No.327 dated 30.5.2015 had been registered under Sections 8 and 9 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 at P.S.Sadar Fatehabad.

7. The law is that if a convict absconds when on parole and does not surrender to jail, he is still given a window of 10 days under the Act to surrender and in case he does not do so, it is the duty of the police authorities to register an FIR on the expiry of 10 days period. However, if an abortive action is taken prior to the expiry of 10 days, the FIR is liable to be rendered infructuous by a court of law. This is the situation in the case of the petitioner which has led to his acquittal because the police did not follow the aforesaid mandatory procedure which is a rather sorry story to tell about police functioning. But all the same, the Court of Addl.Chief Judicial Magistrate, Fatehabad found sufficient reason for acquittal. That order has become final. It would thus not constitute reason to pay regard to this period of 1 year and 11 days and revive it for the purpose of objecting to grant of parole today.

8. Next, it needs to be examined whether the case of the petitioner falls in the category of hardcore prisoners. The history of the

crimes committed by the petitioner is stated in paragraph 4 of the reply. I have been through the contents of paragraph 4 of the reply. In a large number of cases, the petitioner has been acquitted and in one case, he has served sentence and in another case he was sentenced to already undergone period. In one case i.e. FIR No.235 dated 22.6.2005 under Sections 302, 201, 387, 34 of the IPC at P.S.Civil Line Hisar he has been convicted and in the said case, he is seeking parole by way of this petition. There is no other impediment in the way of the petitioner for grant of agricultural parole and to attend the last rites and ceremonies of his brother on 5.11.2019.

9. Taking into account the aforesaid relevant considerations, it is deemed appropriate to grant the benefit of agricultural parole to the petitioner for a period of six weeks from the date of his release.

10. In view of the above, this petition is allowed. The impugned order dated 3.1.2019 (Annex. P-2) is quashed. The petitioner is granted parole for a period of six weeks from the date of his 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 jail before the period of parole is over and done with. CM No.17455 of 2019 also stands disposed of accordingly.

(RAJIV NARAIN RAINA)
JUDGE

20.11.2019
MFK

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No