

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

CWP-29991-2018 (O&M)

Date of decision : 5.4.2019

Vikrant

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Prateek Rathee, Advocate for the petitioner.

Mr. Sandeep Vashisth, DAG, Haryana.

KULDIP SINGH, J.

Petitioner seeks quashing of the order dated 29.9.2018 (Annexure P-1), passed by Commissioner Rohtak Division, Rohtak vide which case of the petitioner for temporary release on parole for agricultural purpose has been rejected on the ground that he is habitual offender and may disturb the peace. Petitioner also seeks mandamus for directing the respondents to release the petitioner on agricultural parole for a period of six weeks under Section 3(1) (c) read with Section 3(2) (c) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for short 'the Act').

I have heard learned counsel for the petitioner.

I have gone through the impugned order dated 29.9.2018 (Annexure P-1) as well as the reply filed by learned State counsel. A perusal of the impugned order dated 29.9.2018 (Annexure P-1), shows that five cases mentioned in the said order are pending against the petitioner and he

has been convicted in three cases of murder. If the petitioner is released on parole, he may disturb the peace in region. The Sub Divisional Magistrate Alipur 'North West' Delhi and Deputy Commissioner of Police, Rohini have also not recommended his case.

Further, the reply filed by the State shows that petitioner was convicted by learned Additional Sessions Judge, Jhajjar on 29.4.2013, in case FIR No. 276 dated 26.9.2007, under Sections 148/149/302/120-B/307 of the Indian Penal Code, Police Station Sadar, Bahadurgarh, Jhajjar and is undergoing life imprisonment in addition to fine. He has also been convicted in other two cases, details of which is as under:-

'Details of other convicted cases

(a) *Convicted on 29.4.2013 by the learned Court of Sh. Rajesh Malhotra, Additional Sessions Judge, Jhajjar to undergo imprisonment for Life and to pay the fine of Rs. 25,000/-, in default of payment of fine, the convict shall further undergo rigorous imprisonment for 11 Months in case FIR No. 296 dated 27.10.2007 under Sections 302, 120-B, 34 IPC & 25 Arms Act, P.S. Sadar Bahadurgarh.*

(b) *Convicted on 30.7.2014 by the learned Court of Shri. Rajesh Malhotra, Additional Sessions Judge, Jhajjar to undergo imprisonment for life and to pay the fine of Rs. 70,000/-, in default of payment of fine, the convict shall further undergo rigorous imprisonment for One Year and Eight Months in case FIR No. 218 dated 20.05.2010 under Sections 302, 120-B, 307 IPC & 25/27 Arms Act, P.S. Sadar Bahadurgarh.'*

State has further taken the plea that two other cases are pending against the petitioner. One of which is for committing murder in the jail and he is acquitted in another murder case. State has also taken the plea that the petitioner is right hand man of Gang headed by Mainpal of Badli Gang.

Learned counsel for the petitioner states that in the murder case, pending against the petitioner, he has been granted bail.

On the other hand, learned State counsel has argued that head of the Gang Mainpal was granted parole but he jumped parole and is absconding. It is further contended that the petitioner is convicted in three murder cases. One murder case is pending against him and another case is under Section 307 IPC is also pending against him. Therefore, if the petitioner is released on parole, he will abscond and may also join the gang of Mainpal and commit the crimes.

Learned counsel for the petitioner further contends that under Section 5(a) of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act 2012, petitioner fulfills the criteria of sentence of imprisonment of five years being hard core criminal and is entitled to parole. He further contends that three of the co-accused have been granted parole by the authorities and one Balwan-co accused has been granted parole by this Court.

I am of the view that the entitlement to apply for parole is one thing and grant of parole is another thing. For grant of parole, authorities has to check the background to see as to *whether the petitioner can be released on parole or not?* Regarding the co-accused, they might be involved with the petitioner in one or the other case but the background of the petitioner, as discussed above, shows that he is not fit person to release on parole.

Considering the entirety of circumstances and background of

the petitioner, I do not find any illegality or infirmity in the impugned order dated 29.9.2018 (Annexure P-1), passed by Commissioner Rohtak Division, Rohtak, declining parole to the present petitioner.

Dismissed.

5.4.2019
preeti

(KULDIP SINGH)
JUDGE

Whether speaking / reasoned	Yes
Whether Reportable:	No