

222/2 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-32031-2018

Date of decision : 24.07.2019

Naveen

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

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

Mr. Tanuj Sharma, Additional Advocate General, Haryana.

KULDIP SINGH, J.(ORAL)

The petitioner has impugned order dated 31.10.2018 (Annexure-P-1), passed by the Commissioner, Rohtak Division, Rohtak, vide which the prayer of the petitioner for parole was declined.

The petitioner is convicted under Section 20 of the NDPS Act and sentenced to undergo rigorous imprisonment for 10 years. Earlier the petitioner has approached this Court by way of filing CWP No. 25858 of 2018 which was decided on 26.10.2018. The order declining the parole was set aside on the ground that the same is cryptic and does not assign any cogent reason for rejecting the plea. Therefore, the matter was remitted to the authorities to decide the same afresh after considering the pleas raised in the recent petition.

The reasons mentioned in the petition show that the petitioner sought the parole for house repair and to settle the dispute with the Bank as well as to meet his wife and children.

The impugned order shows that the case of the petitioner was considered for parole for admission of children in school. It was observed

in the impugned order that there are other family members who are capable for getting admission in educational institutions. The criminal history of the petitioner was also considered. It was also found that the case of the petitioner is not recommended by the Superintendent of Police, Jhunjhunu. It was also found that the convict and his brother are repeatedly found involved in the crimes and have been convicted for smuggling of Narcotic drugs.

Reply of the State shows that only one case is pending against the petitioner under Sections 15 and 27 A of NDPS Act. In another case, pertaining to FIR No. 83 of 2016 under Sections 459, 307, 336, 323, 34 of IPC, he has already been acquitted. Another case has been decided against the petitioner in which he has fined to pay Rs.500/- . Therefore, it cannot be said that there is a history of repeated crimes. Brother of the petitioner is stated to have been released on bail. Order further shows that there are other family members to get the children admitted in the education institutions. In the reply, the plea taken in the impugned order has been supported. The plea taken in the impugned order shows that there is a complete non-application of mind. In CWP 25858 of 2018, parole was sought on the ground of house repair and settle the dispute with Bank as well as to meet his wife and children. This Court while setting aside the said order directed the authorities to consider the plea raised in the recent petition and pass the fresh order. However, the impugned order has been passed assuming that parole was sought on the ground of admission of children. There is no such criminal history of repeated crimes.

The petitioner was convicted on 22.03.2017 and in jail since then. It is not denied that the petitioner has to settle the dispute with the

Bank and to meet his family members. There is no other ground for this Court to deny the parole. The impugned order is quashed and the petitioner is ordered to be released on parole for four weeks for the purpose of house repair, settle the dispute with the Bank and to meet his family members, on furnishing adequate surety to the satisfaction of the District Magistrate concerned.

The petition is accordingly, allowed.

(KULDIP SINGH)
JUDGE

24.07.2019
hemlata

Whether speaking/reasoned Yes / No

Whether reportable Yes / No