

CRWP-900-2020 (O&M)

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

**CRWP-900-2020 (O&M).
Decided on: February 14, 2020.**

Ashok Kumar

.. Petitioner

VERSUS

State of Haryana and others

.. Respondents

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Ms.Veenus Malik, Advocate,
 for the petitioner.**

Mr.Gaurav Bansal, AAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed seeking directions to the respondents to release the petitioner on four weeks parole for the marriage purpose of real brother in FIR No.224 dated 17.10.2011, under Sections 302, 307, 216, 148, 149 and 120-B IPC, and under Section 25 of the Arms Act, registered at Police Station, Kurukshetra.

Notice of motion was issued in this case and the State has filed status report by way of affidavit of Mr.Rajender Singh, Deputy Superintendent, District Jail, Yamunanagar which is taken on record. It has

CRWP-900-2020 (O&M)

been stated in the affidavit that the case of the petitioner had been rejected by the competent authority vide order dated 3.2.2020. It has been further stated in the affidavit that parole case of the petitioner cannot be initiated because the petitioner is in “hard core” category and is also facing trial in number of cases in various courts in which he is not on bail in two criminal cases details of which have been mentioned in para 2 of the status report. It has been further stated that the petitioner was convicted and sentenced to undergo life imprisonment in FIR No.224 dated 17.10.2011, under Sections 302, 307, 120-B, 148 and 149 IPC, P.S. City Kurukshetra, District Kurukshetra, and the appeal against that was also dismissed and he is undergoing the sentence in District Prison, Yamuna Nagar. It has been further stated in the affidavit that the petitioner has also been acquitted in about 10 cases which pertain largely to Arms Act details of which have been stated in para 4 of the status report. It has also been stated in the status report that the petitioner is facing prosecution in FIR No.330 dated 25.07.2017 under Section 41-A of Prisons Act, P.S. City Kaithal and the petitioner falls under the “hardcore category” as per the definition contained in Section 2 (aa) (iv) of the Haryana Good Conduct Prisoners (Temporary Release) Amended Act, 2012. Thereafter, in para 6, it has been stated that the petitioner was earlier released on six weeks parole on 12.3.2016, but he had not surrendered himself at the jail gate in time and was arrested by police and lodged in the jail after 3 months and 2 days and further while on parole, 5 cases were registered against the petitioner out of which 3 cases pertain to the Arms Act and the other under Sections 302 and 307 IPC etc.

CRWP-900-2020 (O&M)

Thereafter, another case has been registered against the petitioner under Section 8/9 of Haryana Good Conduct Prisoners' (Temporary Release) Act, 1988, P.S. Uchana, District Jind in which the sentence has already been undergone by the petitioner on 22.1.2019.

Learned State counsel submits that in view of the conduct of the petitioner and especially in view of the fact that he had jumped the parole and while on parole 5 cases were registered against him and thereafter, he was arrested by the police and that he is also in the “hardcore category” and as such, is not entitled to the concession of parole and the marriage of brother is not such a ground on the basis of which parole may be granted.

In response, the learned counsel for the petitioner submits that if the mobile phone has been found from the petitioner in the jail that cannot be a ground for declaring the petitioner falling under “hardcore” category. The learned counsel has relied upon a Division Bench judgment of this Court in CRWP-1374-2017, titled as Gurdeep Singh Vs. State of Haryana and others, decided on 7.12.2017, to show that the same is not a ground to categorize somebody as “hardcore” and therefore, she prays for the grant of parole.

I have heard the learned counsel for the petitioner as well as learned State counsel and have gone through the status report filed by the State in the Court.

It is true that in view of the Division Bench judgment of this Court, the mere possession of mobile phone may not become a ground

CRWP-900-2020 (O&M)

for categorizing the petitioner as “hardcore” prisoner but in the present case there are number of other factors on the basis of which the petitioner has been denied the concession of parole by the competent authority. As detailed in the status report, petitioner is involved in number of cases and he also not on bail in two other cases including one under Section 302 IPC. The more startling and serious issue involved in the present case is that while on parole 5 cases were registered against the petitioner within a span of 3 months and 2 days and thereafter, the petitioner who misused the parole by not surrendering before the jail authorities, was arrested and the said 5 cases are under the Arms Act as well as under the Indian Penal Code. It is settled law that power to grant parole should not be exercised in a mechanical manner and there has to be due application of mind by the competent authority as well as by Courts.

Considering the conduct of the petitioner especially that during earlier parole period 5 cases were registered against the petitioner under the Arms Act as well as under the Indian Penal Code, I do not find it appropriate to accept the arguments of the learned counsel for the petitioner for the grant of parole to the petitioner. In view of factual position which has been stated in the status report filed by the Deputy Superintendent, District Jail, Yamuna Nagar, I am not inclined to interfere in the present case and therefore, the present petition is hereby dismissed.

February 14, 2020.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No