

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

214

CRWP No.8571 of 2020

DATE OF DECISION : 29th OCTOBER, 2020

Pankaj Kumar

.... **Petitioner**

Versus

The State of U.T. Chandigarh & others

.... **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

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In virtual Court

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Present : Mr. Hoshiar Singh Jaswal, Advocate for the petitioner.

Mr. Sukant Gupta, Additional Public Prosecutor,
for UT Chandigarh respondents No.1 to 3.

Mr. Arun Beniwal, DAG, Haryana for respondent No.4.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner under Article 226 of the Constitution of India for quashing of order dated 08.10.2020 (Annexure P-10) passed by respondent No.2, whereby the parole extended to the petitioner from time to time due to prevailing situation of Covid-19 pandemic, has been withdrawn/canceled in an illegal and arbitrary manner and further seeking direction to respondent No.2 to withdraw the impugned order with immediate effect with further prayer to stay the operation of the impugned order.

It is contended by the counsel for the petitioner that the order of cancellation of parole dated 08.10.2020, has been passed totally in an illegal manner and based upon totally non-sustainable complaint

made by the estranged wife of the petitioner. There was no justifiable material with the State of Haryana to recommend the cancellation of the parole of the petitioner to the UT Chandigarh. It is further submitted that the order of cancellation of parole was communicated to the petitioner on 08.10.2020. Immediately thereafter the present petition was filed on 12.10.2020. Hence, although, the petitioner has a very good case on merits, however, since the petitioner has full faith in the process of law, therefore, he intends to surrender to the jail authorities to serve the remaining sentence. Hence the petitioner be permitted to withdraw the present petition. But the present impugned order should not be taken as adverse to the petitioner during consideration of his case for premature release at any time in future.

As response to this, learned counsel for the UT Chandigarh has submitted that he is not in a position to make any statement qua the non-visiting of adverse consequences to the petitioner on account of his non-surrendering on cancellation of his parole. However, the counsel for the UT has failed to point out any statutory provision which makes the overstay of a convict on parole, per se, a ground for denying concession of premature release to him.

Although, there may be some legal consequences for the overstay of a convict after the parole period is over or is cancelled, however, in the present case, the petitioner has been before this court continuously from the time immediately after the parole was cancelled. Therefore, the petitioner can be granted the benefit of exemption from the consequences which might visit him on account of overstay of parole after cancellation of the same, which otherwise, the petitioner has challenged before this court with due promptitude.

Accordingly, the present petition is dismissed as withdrawn qua the other grievance.

However, it is ordered that the factum of overstay of parole by the petitioner in this particular instance, shall not be taken as a circumstance adverse to the petitioner in any manner at the time of consideration of his case for premature release or qua any other benefit available to him, if the petitioner now surrenders within a period of one week from today.

Dispose of with the above said direction.

29th OCTOBER, 2020
‘raj’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>