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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-1769-2019

Date of Decision : 15.01.2020

SONU @ SOHAN LAL

..... PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

..... RESPONDENTS

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. A.S.Trikha, Advocate
for the petitioner.

Mr. Sukhdeep Parmar, DAG, Haryana.

AJAY TEWARI, J. (Oral)

1. This criminal writ petition has been filed for grant of furlough to the petitioner.

2. The only ground taken by the Commissioner, Hisar Division for declining the furlough is based on Rule 5 of the Haryana Good Conduct (Temporary Release) Rules, 2007. The same is reproduced herein.

“5. No parole/furlough shall be granted to a prisoner who has been sentenced to death penalty.”

2. Learned Deputy Advocate General has relied upon the case of ***Vijay Pal @ Goldy Versus State of Haryana and others, CWP No. 1989 of 2019*** decided on 20.03.2019. In that case, Harinder Singh Sidhu, J. has considered the judgment of ***Krishan Lal Versus State***

of Rajasthan, (2013) 11 SCC 395 in detail and had noticed that in *Krishan Lal's case (supra)*, the death penalty had been imposed by the trial Court and the High Court upheld the conviction of all the convicted persons but commuted the death sentence to imprisonment for life.

3. In an appeal, Hon'ble Supreme Court had confirmed the conviction and sentence awarded to the appellant by the High Court and held that the imprisonment for life awarded to Krishan Lal would be imprisonment for rest of his life. It was further noticed that in that case the counsel for the complainant had expressed apprehension that if Krishan Lal was ever released on furlough or parole, he would murder the remaining family members and then learned counsel for the Krishan Lal had made a submission that if he was sentenced to imprisonment for life, he would never claim any commutation or premature release on any ground and that is why the Supreme Court had clarified that Krishan Lal would not be entitled to any commutation or release under Section 401 of Cr.P.C, Prisoners Act, Jail Manual or any other statute and the rules made for the purposes of grant of commutation and remissions. It was in those circumstances that the Supreme Court held that Krishan Lal would be entitled only to parole 'in emergent cases involved humanitarian consideration'. After noticing the judgment in *Krishan Lal's case (supra)*, Harinder Singh Sidhu, J. held as under:-

“With the sentence as it stands, as per the decision of Hon'ble Supreme Court, the petitioner would in any case be entitled to be released on emergency parole on account of his father's death as per Section 3(1) (a) of the Haryana Goods Conduct Prisoners (Temporary Release) Act.

4. In the circumstances, we find that the reliance placed on *Krishan Lal's case (supra)* is inapplicable. The sentence is also not yet

final. Resultantly, we reject the contention that the case of the petitioner is barred under Rule 5 of the Act and direct the competent authority to take a fresh decision on merits within a period of three weeks from the date of receipt of the certified copy of this order.

5. The impugned order is set aside and the petition is disposed of in above terms.

(AJAY TEWARI)
JUDGE

15th January, 2020
shabha

(AVNEESH JHINGAN)
JUDGE

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