

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

CRWP No. 6361 of 2021
Date of decision 14.07.2021

Devender Dass

...Petitioner

Vs.

State of Haryana and ors.

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. Arjun Sheoran, Advocate,
for the petitioner.

Ritu Bahri, J.

This petition has been filed under Articles 226 and 227 of the Constitution of India for issuance of writ in the nature of certiorari for setting aside order dated 02.07.2021 (P-2), passed by the Jail Superintendent, District Jail, Gurugram, vide which application filed by the petitioner for grant of special parole, has been declined.

Issue notice of motion.

On asking of the Court, Mr. Ankur Mittal, Addl.A.G. Haryana accepts notice on behalf of respondent-State.

Learned counsel for the petitioner at the very outset has referred to impugned order dated 02.07.2021 (P-2) to contend that the application of the petitioner for grant of special parole has been declined only on the ground that the petitioner has been sentenced life imprisonment without remission and is thus not eligible for grant of special parole.

Learned counsel for the petitioner states that the petitioner is

entitled for grant of special emergency parole due to COVID 19 situation, in view of the orders of the Hon'ble Supreme Court dated 07.05.2021 (P-4) and the Hon'ble High Powered Committee for State of Haryana on 11.05.2021 (P-5).

Learned counsel for the petitioner has referred to Division Bench judgment of this Court in a case of ***Savitri vs. State of Haryana and others, passed in CRWP-5238-2020, decided on 19.08.2020*** whereby the petitioner challenged order rejecting her application for grant of parole, as she has been awarded a sentence of imprisonment for life i.e whole of her natural life, without any remission. This Court allowed the petition while relying upon judgment of Hon'ble the Supreme Court of India in a case of ***Union of India vs. Sriharan @ Murugan (2016) 1 SCC 1***, wherein it has been held that it is not open to a Court inferior to the High Court and Supreme Court, while awarding a sentence of life imprisonment under the Indian Penal Code to further provide for any specific term of incarceration, or till the end of a convict's life, or to direct that there shall be no remission, as an alternate to the death penalty. That power is only with the High Courts and the Supreme Court.

Heard learned counsel for the parties.

This issue has already been considered by this Court in cases of ***Anil Dass vs. State of Haryana and others, passed in CRM-W-721-2021 in CRWP-10303-2020 and Joginder vs. State of Haryana, passed in CRWP-2142-2019, decided on 29.06.2021.***

Learned State counsel has not been to cite any law contrary to the above.

In the present case as well, the case of petitioner for grant of

temporary parole has been wrongly rejected only on the ground that the petitioner has been sentenced life imprisonment without remission and is thus not eligible for grant of special parole.

Applying the ratio of *Savitri's case (supra)*, the present writ petition is allowed and order dated 02.07.2021 (P-2) is set aside. A direction is issued to Supdt Jail, District Jail, Gurugram to pass fresh order for release of the petitioner on parole in accordance with law. The fresh order be passed within a period of two days from the date of receipt of certified copy of this order.

A copy of this order be given dasti to learned State counsel under the signatures of Court Secretary of this Court.

(RITU BAHRI)
JUDGE

14.07.2021
G Arora

(ARCHANA PURI)
JUDGE

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