

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

CRWP-7263-2021 (O&M)
Date of decision: 20.8.2020

Harender @ Harera

... Petitioner (s)

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Prateek Rathee, Advocate,
for the petitioner (s).

Ms. Palika Monga, DAG, Haryana.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

The petitioner, who is lodged in District Jail, Gurugram and is
serving life imprisonment in criminal case having FIR No.177 dated
22.5.2012 registered under Sections 302, 147, 148, 149, 323, 324, 307 IPC
and Section 25 of Arms Act at Police Station Hodal, District Palwal, has
laid challenge to order dated 15.6.2021 (Annexure P-2) whereby his request
for grant of parole for agricultural purposes was declined by respondent
No.2-Commissioner, Gurugram Division, Gurugram on the ground that the
convict is a hardcore prisoner under Section 2(aa)(iv) of Haryana Good
Conduct Prisoners (Temporary Release) Amendment Act, 2013 (in short,
“the Act”).

declared a hardcore prisoner just on the ground that during search, one mobile phone was recovered from him inside the jail premises. It was further argued that said circumstances could not come in the way of grant of parole, till the time the petitioner is convicted of such offence registered against him under Section 42 of Prisons Act. Counsel for the petitioner, thus, prayed for release of the petitioner on parole for agricultural purposes.

On the other hand, learned State counsel while supporting the impugned order (Annexure P-2), contended that the petitioner failed to keep good behaviour during his custody in the jail and as such, is not entitled to concession of parole. She in support of her arguments has drawn attention of this Court to the decision of the Coordinate Bench of this Court in **Vakil Raj v. State of Haryana**; 2015 (3) PLJ (Criminal) 653, which was subsequently followed by learned Single Judge of this Court in **Sukhvir Singh alias Sukha v. State of Punjab**, 2019 (3) PLR 489. In Vakil Raj's case (supra), the Court held that imposing a condition that use of a mobile, which has the potential of misuse, will disentitle a convict for grant of parole, cannot be said to be unjustified as it is a requirement introduced for maintaining discipline and a good behaviour in jail.

We have considered the rival contentions raised by the counsel for the parties.

The argument raised by the counsel for the petitioner that until the petitioner is convicted in criminal case registered against him under Section 42 of the Prisons Act, he would not be covered under the definition of "hardcore prisoner", is not tenable. The registration of FIR under Section 42 of the Prisons Act, *prima facie*, establishes that the petitioner failed to

of the view that the petitioner being covered under the definition of “hardcore prisoner” as prescribed in the Act, was rightly declined parole by the competent authority as he has not completed 5 years of imprisonment under the provisions of the Act.

In the light of the above, the present petition is hereby dismissed being devoid of merits. Nevertheless, he will be entitled to be considered for parole on the completion of atleast 5 years of custody in jail and observations made in the present order should not be construed as pre-determination of such prayer as and when it is made by the petitioner.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

August 20, 2020
Paritosh Kumar

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