

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

**CRWP No.10303 of 2020 (O&M)**  
**Date of Decision: January 07, 2021**

Anil Dass

...Petitioner

VERSUS

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE S.N.SATYANARAYANA**  
**HON'BLE MRS. JUSTICE ARCHANA PURI**

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

Ms.Shruti Jain, DAG, Haryana  
for the respondent(s)-State.

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**S.N.SATYANARAYANA, J.**

The matter has been taken up through video conferencing in the light of COVID-19 pandemic.

The petitioner, who is 13<sup>th</sup> accused in SC No.51 of 2015 on the file of Addl. Sessions Judge, Hisar, has come in this petition impugning order dated 28.08.2020 of the 4<sup>th</sup> respondent-Commissioner, Gurugram Division, Gurugram, in rejecting the application of the petitioner for parole for a period of four weeks.

The admitted facts are as under:-

The petitioner herein is one of the accused in a proceeding initiated pursuant to FIR No.429 dated 19.11.2014, which was registered for the offences punishable under Sections 302, 343 read with Section 34 and 120-B IPC, registered with Barwala Police Station, District Hisar, Haryana,

where accusation against the petitioner herein and another 14 persons is in

committing certain acts resulting in the death of several persons. The complaint which was registered in FIR No.429 dated 19.11.2014 was investigated and subsequently, charge-sheet was filed against 15 persons, where petitioner herein was 13<sup>th</sup> accused. In the proceeding, which was conducted before the Sessions Court, Hisar, learned Addl. Sessions Judge, Hisar, after recording finding that the petitioner herein among other accused were responsible for the homicidal death of several persons, found them guilty of the offence punishable under Sections 302, 342 and 120-B IPC and consequently, sentenced each one of them to undergo imprisonment of various terms. With reference to the petitioner herein, he was sentenced to undergo rigorous imprisonment for a period of two years for the offence under Section 343 IPC and imprisonment for life without any remission under Sections 302 and 120-B IPC on both counts separately, pursuant to which, the petitioner herein is undergoing sentence in District Jail, Gurugram.

When matter stood thus, the petitioner made an application seeking parole for a period of four weeks on the ground that the house in which he was staying along with his father and parents of his father, is in a dilapidated condition and that the same is required to be repaired immediately and the presence of petitioner is essential to do the same, in view of the fact that his father is aged and his parents are also aged and they would not be able to take repair work. In support of the application, he has also secured the recommendation of local Municipal Councillor and other letters, which are normally given without realizing the magnitude of the offences and the consequence of letting out these people in the society, when they are ordered to undergo sentence for most heinous of the offence.

Be that as it may. The application which was presented to the 4<sup>th</sup> respondent-Commissioner, Gurugram Division, Gurugram, was not considered and the same was rejected vide order dated 28.08.2020, which is subject matter of challenge in this criminal writ petition. Initially, the criminal writ petition was filed without appending a copy of the judgment under which the petitioner was ordered to undergo sentence for the offence for which he was found guilty. However, at the bidding of this Court, learned counsel for the petitioner has furnished the copy of the judgment.

Perused the grounds urged in the petition vis-a-vis the order impugned in the background of the judgment. Also, heard learned counsel for the petitioner as well as learned State counsel.

In the course of arguments, learned counsel for the petitioner tried to impress upon this Court that the order which is passed by learned Addl. Sessions Judge, Hisar in holding that the petitioner herein, accused in Sessions Court, should undergo imprisonment for life without remission, itself is wrong and there is already a finding given to that effect by a Coordinate Bench in another matter where it was held by Hon'ble Division Bench of this Court that in putting such restrictions are incorrect.

We also looked into the order which was relied upon by learned counsel for the petitioner, which is part of the petition filed by him. We are unable to understand under what circumstance, learned Judges of the Coordinate Bench gave such finding. In any event, after going through the judgment threadbare and considering the manner in which petitioner herein and 14 other accused were involved in causing homicidal death of innocent people which included women and children, where act of the petitioner and

other similarly placed accused is in supporting another hardcore criminal,

whose arrest was opposed by them by using these people as shield, when that is looked into, we really felt that learned Addl. Sessions Judge, Hisar, was right in giving such finding for the reason that he felt that leaving these people out in the society even for a minute at any time, after they are found to be guilty of these offence, is not in the larger interest of the society and they could be threat to the society at any point of time in any manner. We really appreciate the findings of learned Addl. Sessions Judge, Hisar, inasmuch as, he has not come to such conclusion in whimsical or fanciful manner but after giving careful consideration with reference to the manner in which all the accused in said sessions case have behaved, therefore, a passing reference, which is found in the judgment referred to by learned counsel for the petitioner, which is rendered by Hon'ble Coordinate Bench, on appreciating facts of the said case, cannot be taken into consideration in the present case. Inasmuch as, the facts under which the said observation is made, is totally contrary to the facts, under which the observation was made by learned Addl. Sessions Judge, Hisar. The finding of learned Addl. Sessions Judge in the said proceedings would strengthen our understanding that such restrictions are necessary and are rightly in place and we should ensure that the same is upheld and supported for the goodwill of the society and for the common good of the citizen of this country. In the circumstance, we feel that the ground which is urged by learned counsel for the petitioner that the Court should accept the finding of Hon'ble Coordinate Bench in holding that remission should not come in the way of granting parole, cannot be accepted and that ground is rejected.

Now, coming to the other ground, which is raised, is in trying

Gurugram, where it is held that the property in question is not standing in the name of the petitioner and it is in the name of his father, hence, the application of the petitioner cannot be considered for parole, also does not merit consideration, inasmuch as, the said finding is given by the Commissioner after giving careful consideration to the facts of the case. In any event, even if that ground is held to be in favour of the petitioner, it cannot be basis for considering and granting his prayer for parole and allowing him to come out of the jail even for a period of one day during his life time, when he is ordered to undergo sentence without remission. Therefore, we consider that this is an extra ordinary circumstance, where learned Addl. Sessions Judge has rightly considered in putting restriction on the right of the petitioner to seek remission at any point of time, during his lifetime, to come out of the jail for any reason. We find that to be just and proper.

Therefore, in the light of aforesaid observation, we are of the opinion that the application filed by the petitioner herein is rightly dismissed by 4<sup>th</sup> respondent-Commissioner, Gurugram Division, Gurugram, which need not be re-considered and should not be disturbed by this Court in exercise of its extra ordinary power under writ jurisdiction. Accordingly, the present criminal writ petition is dismissed.

**(S.N.SATYANARAYANA)**  
**JUDGE**

**(ARCHANA PURI)**  
**JUDGE**

**January 07, 2021**  
Vgulati

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No