

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

CRWP No. 2142 of 2019
Date of decision 29.06.2021

Joginder

...Petitioner

Vs.

State of Haryana and ors.

...Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ALKA SARIN**

Present: Mr. Parteek Rathee, Advocate,
for the petitioner.

Mr. Ankur Mittal, Addl.A.G. Haryana

Ritu Bahri, J.

CRM-W-170-2021

Application is allowed as prayed for.

Accordingly, Annexure P-4 and P-5 are taken on record.

CRWP-2142-2019

This petition has been filed under Article 226 of the Constitution of India for issuance of writ in the nature of certiorari for setting aside order dated 06.12.2019 (P-1), passed by the Commissioner, Hisar Division-Hisar, vide which application filed by the petitioner for grant of temporary release on parole, has been declined.

Learned counsel for the petitioner at the very outset has referred to impugned order dated 06.12.2019 (P-1) to contend that the application of the petitioner for grant of temporary release on parole has been dismissed only on the ground that the petitioner is undergoing life imprisonment till natural death and thus is not eligible for temporary release on parole.

Reference has been made to Panchayat certificate (P-5) wherein it has been mentioned that there is no one in the family of the petitioner to look after the agricultural land, as his father and mother have already died and his one brother is in army. It has further been mentioned that if a parole is granted to the petitioner, village Panchayat shall have no objection.

On notice of the petition, a written statement has been filed on behalf of respondent Nos. 1 to 3 stating therein that apart from the present case i.e F.I.R No. 429 dated 19.11.2014, there are two other cases pending against the present petitioner i.e F.I.R No. 430 dated 19.11.2014 under Section 302/343/120-B IPC and F.I.R No. 428 dated 18.11.2014 under Sections 107/147/148/186/188/120-B/121/121-A/122/123/224/225/332/353/342/307/436 IPC and Sections 25/54/59 of Arms Act. Reference has been made to decision dated 04.07.2019 passed by this Court in CWP No. 17637-2019 titled as Vijay Pal @ Goldy vs. State of Haryana and others, wherein in similar circumstances, the case of the petitioner was dismissed, keeping in view the fact that the sentence of the convict is for life imprisonment till natural death.

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.

Learned State counsel has not disputed Panchayat certificate (P-5) wherein it has been mentioned that there is no one in the family of the petitioner to look after the agricultural land.

Heard learned counsel for the parties.

In the present case as well, the case of petitioner for grant of temporary parole has been wrongly rejected only on the ground that he is undergoing life imprisonment till natural death and is thus not eligible for temporary release on parole.

Applying the ratio of *Savitri's case (supra)*, the present writ petition is allowed and order dated 06.12.2019 (P-1) is set aside. The petitioner's application for parole is remitted to the Commissioner, Hisar Division-Hisar to consider afresh the petitioner's application for parole in accordance with law. The fresh order be passed within a period of two weeks from the date of receipt of certified copy of this order and communicated to the petitioner within the next 7 days. If aggrieved by such order, it will be open to the petitioner to seek appropriate remedies available to him in accordance with law.

(RITU BAHRI)
JUDGE

29.06.2021
G Arora

(ALKA SARIN)
JUDGE