

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

210

CRWP No. 637 of 2022

Date of Decision: February 22, 2022

Lalit

....Petitioner

VERSUS

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE G. S. SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Yuvraj Singh, Advocate for
Mr. Prateek Rathee, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl. A.G. Haryana.

G.S. SANDHAWALIA, J(Oral).

Present petition has been filed under Article 226 of the Constitution of India for quashing of order dated 20.12.2021 (Annexure P-1), passed by Jail Superintendent, District Jail, Gurugram, who has rejected the petitioner's case for his temporary release on parole.

The ground taken in the impugned order is that the petitioner is a hard-core prisoner and he has not completed his requisite imprisonment after being categorised as 'hard-core prisoner'. Therefore, he is not eligible for any kind of parole as five years of imprisonment is specified under sub-section 2 of Section 5A of the Haryana Good Conduct Prisoners (Temporary Release) Act, which has not been completed by him.

The case of the petitioner is that he was convicted and sentenced to life imprisonment vide judgment dated 19.04.2019, against which he has already filed a criminal appeal (CRA-D-513-2019), which is pending adjudication before this Court. The ground for grant of parole is ill health of father of the petitioner, who has been diagnosed with a medical problem and his surgery as such is required. The necessary medical record is appended as Annexure P-3. Even in the impugned order dated 20.12.2021 (Annexure P-1), the factum of the petitioner's father being admitted in the Sunrise Hospital, Gurugram since 11.12.2021 has been admitted but the ground taken is that he has not been operated till now and therefore, he seems to be not seriously ill. The petitioner has also specifically averred that he had earlier been released on parole for 9 weeks and 1 days as per custody certificate (Annexure P-4).

The above aspect is also admitted in the reply now filed by Superintendent of Prison, District Prison, Gurugram, wherein it has come on record that the petitioner was on parole from 18.07.2020 to 09.08.2020 and from 19.02.2021 to 13.03.2021. Thus, it is apparent that the defence as such, which has now been set up i.e. legal bar on account of the possession of mobile phone and that the petitioner is not entitled for the benefit of parole, is not justified inasmuch as FIR No.85 of 2016, was registered against him under Section 42(A) of Prisons Act at Police Station Bhondsi, District Gurugram. In spite of that the petitioner had admittedly been granted the benefit of parole earlier on two occasions as is clear from the

custody certificate and reply filed by the respondents. In such circumstances, once a benefit is granted on an earlier occasion and petitioner's claim for parole is now on account of illness of his father, the rejection, as such, on account of statutory bar has paled off. Moreover, even in the reply, report of Police Station Sector 10A, Gurugram is there that father of the petitioner is very ill, admitted in hospital and there is no one else in his family except his wife and small children.

Accordingly, exercising the extra ordinary writ jurisdiction under Article 226 of the Constitution of India, the petition is allowed and the impugned order dated 20.12.2021 is quashed. Petitioner be released on emergency parole for a period of three weeks on furnishing personal and surety bonds to the satisfaction of District Magistrate, Gurugram. The petitioner shall surrender in time in the jail on the expiry of the said period after his release.

(G. S. SANDHAWALIA)
JUDGE

(VIKAS SURI)
JUDGE

February 22, 2022
Sachin M.

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