

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRWP-4948-2022 (O&M)
Date of Decision:-17.8.2022

Vishweshar @ Rinku

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Sachin Gupta Ladwa, Advocate for the petitioner.

Mr. Krishan K. Chahal, Addl. A.G. Haryana.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of parole for the purpose of getting his children admitted in school/college. The petitioner stands convicted in a case arising out of FIR No. 89 dated 9.3.2008, Police Station City Thanesar, District Kurukshetra, under Sections 364-A, 377, 201, 34, 420, 411, 468, 471 of Indian Penal Code and under Section 25 of the Arms Act wherein he has been sentenced to undergo life imprisonment and is presently confined in Central Jail, District Ambala.
2. It is the case of the petitioner that his wife had moved an application dated 25.3.2022 (Annexure P-1) to the Superintendent, Central Jail, Ambala for release of the petitioner on parole for the purpose of admission of his children i.e. three daughters as there is no other male member in the family. The said application was considered by the District Magistrate, Kurukshetra and the application was declined vide order dated 4.5.2022 (Annexure P-4), while noticing that the wife and daughters of the petitioner were there at

home to take care of the admission of children. As per the case of the petitioner himself, one of his daughters is studying in class XI. Another factor that weighed with the authorities concerned for declining the prayer was that the petitioner falls in the category of “hard core” criminal and since the petitioner had not undergone 5 years of imprisonment, he was not entitled to grant of parole.

3. The State has filed reply by way of affidavit of Lakhbir Singh Brar, Superintendent, Central Jail, Ambala wherein the stand taken is that the petitioner, being a “hard core” criminal, was disentitled to grant of parole.
4. The learned counsel for the petitioner has submitted that the question as regards disentitlement of a convict for grant of parole on account of possession of mobile phone had been referred to a larger Bench vide order dated 14.9.2020 passed by Division Bench of this Court in CRWP-1890 of 2020 – Kulwant @ Monu versus State of Haryana and others wherein the following question had been framed for reference to a larger Bench :-

8. Accordingly, the following question is referred for decision by a larger Bench of three Judges:

"For the purposes of interpretation of the expression 'hardcore prisoner' under Section 2 (aa) (iv) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, is it necessary that the prisoner, who is detected using or in possession of a cell phone/SIM card inside the jail premises, should, in order to be disentitled to temporary release on parole or furlough, be convicted by a Court for the corresponding offence under Sections 42/42-A of the Prisons Act as applicable to Haryana or even if only punished by the prison authorities under section 46 of the Prisons Act?"

5. The learned counsel has submitted that arguments on the said issue have concluded before the Full Bench and the matter stands reserved since 27.4.2022. It has been submitted that in these circumstances, till the

judgment is pronounced, the petitioner can be considered for grant of parole on provisional basis, subject to imposing of some stringent conditions including a condition for furnishing heavy sureties.

- 6. I have considered rival submissions addressed before this Court.
- 7. Though, the application for grant of parole has been moved by petitioner’s wife on the grounds of admission of petitioner’s daughters but it is no where specifically stated as to whether the presence of the petitioner for the purpose of getting the children admitted in some school/colleges is mandatory. Since the petitioner’s wife is there to do the needfull, the petitioner, who is stated to be “hard core” criminal does not deserve to be released on parole at this stage, particularly when the admission season is already over.
- 8. The petition is sans merit and is hereby dismissed.

17.8.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether reasoned/speaking
Whether reportable

Yes / No
Yes / No