

CRWP No.8428 of 2021 (O&M)

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

**CRWP No.8428 of 2021 (O&M)
Date of decision: 15.02.2022**

Vikas Pandey @ Abhishek Srivastava

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Dhull, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN J.

Prayer in this writ petition is for setting-aside the order dated 26.07.2021 passed by the Commissioner, Faridabad, Division Faridabad, vide which the case of the petitioner for grant of special parole under Section 3(1)(d) and 6 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, was rejected.

It is worth noticing that this petition is pending since 2021 and on 01.02.2022, a request was made by the petitioner that the petitioner has now become entitled to parole and the State Counsel was directed to seek instructions, in this regard.

Brief facts of the case are that the petitioner is undergoing the life sentence in FIR No.418 dated 27.08.2009 registered under Sections 120-B, 201, 302, 365 IPC, Police Station Central Faridabad,

District Faridabad.

The petitioner has applied for special parole, however, the District Magistrate, Alipore, Kolkata, Dist. 24 Parganas (South), recommended the case for furlough. The Commissioner, Faridabad, Division Faridabad, vide impugned order dated 26.07.2021 though, considered the case of the petitioner for release on furlough and rejected the same under Section 32-A of the NDPS Act as the petitioner was also convicted in a case under the NDPS Act.

Reply by way of affidavit of the Deputy Superintendent, District Jail, Faridabad, is on record, in which after verifying the facts of the case, regarding the conviction of the petitioner, it is stated that the petitioner is not entitled to furlough.

A reference is made to Section 32-A of the NDPS Act, providing that subject to the provisions of section 33, no sentence awarded in this Act, shall be suspended or remitted or commuted and therefore, the petitioner can only be granted parole if he has not earned any remission. It is stated that the petitioner will be entitled to apply for parole only after he has completed 01 year of the imprisonment, after conviction under Rule 4(1) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007.

After hearing the counsel for the parties, considering the facts and circumstances of the case and in view of the reply of the Deputy Superintendent, District Jail, Faridabad, this petition is allowed, the impugned order dated 26.07.2021, is set-aside and the matter is

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remitted back to the Commissioner Faridabad, Division Faridabad, to decide the case of the petitioner in the light of his right to avail parole. Afresh order be passed within a period of 01 month from the date of receipt of certified copy of this order.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

15.02.2022
yakub

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