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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : May 30, 2023

LIAQAT ALI

-Petitioner

V/S

STATE OF PUNJAB AND OTHERS

-Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

SURESHWAR THAKUR, J.(ORAL)

1. Trial in respect of FIR No.17 dated 10.02.2019, embodying therein offences constituted under Sections 376-D, 341, 427, 364-A, 342, 323, 354, 354-B, 411 of IPC, and, Section 66-E of I.T. Act, registered with Police Station Dakha, District Ludhiana, was entered into, by the learned Additional Sessions Judge, Children Court, Ludhiana. After termination of the said trial, the juvenile in conflict with law, was convicted in respect of the offences (supra) and also was ordered to be sent to an observation home.

2. The said verdict of conviction and also the above ordering of the juvenile in conflict with law thus being put into an observation home, has been challenged by the juvenile in conflict with law, through his constituting before this Court, a criminal appeal bearing No.CRA-D-435-DB-2022.

3. However, during the pendency of the above appeal, before this Court, the present petitioner/appellant therein, filed an application before

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the learned Additional Sessions Judge, Ludhiana, claiming therein the granting of facility of parole to him. On the said application, the impugned order (Annexure P-7) was passed. A reading of the operative part of the said order, which becomes extracted hereinafter, reveals, that the learned Additional Sessions Judge, Ludhiana, while making Annexure P-7, had declined the claimed relief to the applicant, rather on the ground, that the applicant, had accessed this Court through instituting a writ petition, but since vide order dated 30.11.2022, the said petition was withdrawn but on the asking of the petitioner, as he intended to access the Juvenile Justice Board, for claiming the relief similar to the one, as claimed before the learned Additional Sessions Judge, Ludhiana.

“In view of the said provision, the release of a prisoner on parole is within the domain of the State Government if certain conditions as mentioned above are satisfied and this Court has no jurisdiction to grant parole to the applicant. The applicant has approached the Hon'ble High Court in the Writ Petition, but vide order dated 30.11.2022, the applicant has withdrawn his Writ Petition as he himself intended to approach the Juvenile Justice Board for the relief as claimed in the Writ Petition, but there are no directions of Hon'ble High Court to consider the application for releasing the applicant on parole. In view of the said circumstances, the application is not maintainable. The same stands dismissed.”

3. In pursuance to the above order, an application claiming a relief similar to the one, as became claimed before the learned Additional Sessions Judge, Ludhiana, was filed before the Principal Magistrate, Juvenile Justice Board, Ludhiana. However, as revealed by Annexure P-5, the said application was not pressed and as such, it was permitted to be dismissed as withdrawn.

4. Be that as it may, yet the applicant, petitioner herein, makes a

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challenge to Annexure P-7. However, the challenge as made to Annexure P-7, is an extremely frail challenge, as a reading of the hereinabove extracted portion of Annexure P-7, reveals, that the said application was permitted to be withdrawn, but on the score, as mentioned therein. However, the relief asked for, from the learned Additional Sessions Judge, Ludhiana to access the Principal Magistrate, Juvenile Justice Board, was also not fruitfully availed, inasmuch as, the relevant application not being pressed, rather the same being permitted to be withdrawn. Resultantly, in the wake of the above applications being permitted to be dismissed as withdrawn, thus does not reserve any leverage in the applicant, petitioner herein, to yet make a challenge either to Annexure P-7, or, to Annexure P-5. In sequel, the said orders are maintained and affirmed.

5. However, for ensuring that the ends of justice are met, and, also for ensuring that the petitioner's claim for parole, if is otherwise meteable to him, in accordance with law, that this Court irrespective of the provisions, as become engrafted in the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (hereinafter referred to as the 'Act of 1962'), thus being not applicable in a situation, where the trial becomes entered into, by a Children Court, against a juvenile in conflict with law, nor the said provisions being applicable when a juvenile in conflict with law rather is not sent to a regular adult prison, but is sent to an observation home, yet thus makes the hereinafter directions. Since, it is further stated at the bar, by the learned State counsel, that as of now also, the petitioner is lodged in an observation home, besides when it is further spelt in the reply on affidavit, furnished to the petition, on behalf of the Superintendent, Observation Home, Ludhiana, that in terms of Section 98 of the Juvenile Justice Act, the

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relevant privileges have been granted to the petitioner. Therefore, thus at this stage, this Court does not find any occasion to interfere with the impugned order(s), nor does it deem it fit and appropriate to grant any further leave to the petitioner, to avail the provisions of the Act of 1962, as relate to his being granted the facility of parole.

6. Nonetheless, if, as and when, any occasion arises for any indulgence of release being made of the petitioner, from the observation home, thereupon it is permissible for the petitioner to access the competent committee or the board, to, thus in terms of Section 98 of the Act of 1962, ask for the relevant privileges being accorded to him. Moreover, it is further clarified that, as and when the petitioner is shifted from the observation home into an adult prison, thus at that stage, it may be open to the petitioner, to institute an application before the competent authority, as contemplated under the Act of 1962.

7. With the observations made hereinabove, the extant petition stands disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

May 30, 2023
devinder

Whether speaking/reasoned.	:	Yes/No
Whether Reportable	:	Yes/No