

101 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-2545-2023 (O&M)
Date of Decision: 01.06.2023

RajatPetitioner

Versus

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE B.S.WALIA
HON'BLE MR. JUSTICE LALIT BATRA

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

Mr. Surender Singh Pannu, Addl. A.G., Haryana

B.S.Walia, J. (Oral)

1. Prayer in the petition under Articles 226/227 of the Constitution of India read with Section 3 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022, is for the issuance of a writ of certiorari for quashing order Annexure P/1 dated 22.02.2023, passed by the Superintendent, District Jail, Karnal, declining grant of regular parole to the petitioner for ten weeks on the ground that the parole case of co-convict, Akshay Mastana had been forwarded to the relevant authorities, which was pending adjudication, therefore, as per the provisions of Section 11(6) of the Act *ibid*, the parole case of the petitioner could not be initiated.

2. As per paragraph No.4 of the preliminary submissions of the reply dated 12.04.2023, it has been mentioned that “in reference to grant of parole to the prisoner, it is intimated to you that co-accused of petitioner are undergoing imprisonment in above noted case in this case, out of them

the District Magistrate, Kurukshetra, with a copy of the same to the Commissioner, Karnal Division, Karnal, vide this office letter No.79-82 dated 03.01.2023. In this reference, it is informed that as per Section 11 (6) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022, co-accused will not granted regular parole/furlough simultaneously with this a direction has been issued by the Commissioner, Karnal Division, Karnal, to this office vide their letter No.Parole/1530-32 dated 29.08.2022, that in the case in which more than one prisoners are undergoing sentence, his application should not be sent to this office unless the first one prisoner does not surrender at the jail after availing his parole. Therefore, the parole case of the prisoner along with co-convict cannot be initiated until the parole case of the co-convict Akshay Mastana son of Rajender does not dispose of or the above said convict does not surrender in jail after availing parole.”

3. Learned counsel relies upon the decision of the Coordinate Bench in CRWP-3065-2023, in case titled as Jasbir vs. State of Haryana and others, decided on 28.04.2023, as well as in CRWP-10835-2022, in case titled as Anil Mittal vs. State of Haryana and others, decided on 01.02.2023 (which learned counsel states that the same are co-convicts of the petitioner), as per which, the decision to not consider the claim of the convict for release on parole merely on account of a co-convict being on parole has not found approval of Hon’ble the Division Bench and the writ petitions were disposed of with a direction that in terms of Section 11(6) of the Act *ibid*, ordinarily although co-convict cannot be granted parole simultaneously, yet the authorities need not file the request for parole because of co-convict being on

application of the petitioner for parole within four weeks and in case decision was taken to grant parole, to implement the same after the co-convict surrendered.

4. Learned Addl. AG, Haryana, states that in view of the facts and circumstances of the case, the instant petition be disposed of by directing the competent authority i.e. respondent No.4 to consider and decide the claim of the petitioner for release on parole, in accordance with the provisions of law, within a stipulated period of time.

5. We have considered the submissions and in view of the position noted above are of the considered view that the provisions of Section 11(6) of the Act *ibid*, do not bar the consideration of the claim of a convict for release on parole merely because a co-convict is on parole.

6. We accordingly set aside the impugned order Annexure P/1 dated 22.02.2023 and direct the competent authority i.e. respondent No.4 to process the claim of the petitioner and decide the request for grant of parole in accordance with the provisions of the Act *ibid*. In case a decision is taken to accept the request of the petitioner for release on parole, the same would not be implemented till such time that the co-convict of the petitioner who has been released on parole surrenders.

7. Petition disposed of with the aforementioned directions.

(B.S.WALIA)
JUDGE

01.06.2023

rajesh

(LALIT BATRA)
JUDGE