

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

219

**CRWP No.3227 of 2023
Date of decision: 01.09.2023**

KULDEEP

.... Petitioner

Versus

STATE OF HARYANA AND OTHERS

.... Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present : Mr. Ankit Chahal, Advocate for the petitioner.

Mr. Pawan Girdhar, Addl. AG, Haryana.

Mr. Karan Kaushal, Advocate for the complainant.

MANISHA BATRA,J.

The present petition has been filed by the petitioner under Section 226 of the Constitution of India pleading therein that he had been held guilty and convicted vide judgment and order dated 17.09.2018 passed in case bearing FIR No.105 dated 17.05.2016 registered under Sections 394, 397 and 34 of IPC read with Section 25 of Arms Act at Police Station City Narwana, District Jind and was sentenced to undergo rigorous imprisonment for life. He has filed appeal against the judgment of his conviction which is pending before this Court.

On 06.01.2023, he had submitted a representation to respondent NO.3 for grant of parole for a period of 10 weeks to enable him to repair his damaged residential house and also for carrying out agricultural work on his land as well as to maintain social ties with his relatives and other family members.

Previously also, he had filed a criminal writ petition bearing No. CRWP-995-2023 before this Court for grant of parole on the same grounds which was disposed of on 06.02.2023 by a co-ordinate Bench of this Court in view of the statement recorded by the learned Additional Advocate General, Haryana to the effect that the application of the petitioner seeking parole is still pending and same would be dealt with in accordance with law within a period of one week.

Learned counsel for the petitioner submits that on 11.02.2023, the respondent No.3 had rejected the previous application of the petitioner for grant of parole. It is submitted that the order dated 11.02.2023 passed by respondent No.3 is arbitrary, discriminatory, illegal and against the principles of natural justice. The petitioner has been categorized as a hard core prisoner, however, he has already been extended benefit of bail in two cases which have been registered against him under Section 42 A of the Prisons Act at Police Station Civil Line, Jind and is facing trial in those cases. The question of his guilt in such cases is yet to be adjudicated upon. Hence, prayer has been made for quashing the order dated 11.02.2023 passed by respondent No.3 and directing the respondents to extend the benefit of temporary release on parole for 10 weeks for the purpose of conducting repair in his residential house which has been damaged and for agricultural pursuits and for maintaining social ties.

Upon notice, the respondents have filed a joint reply taking preliminary objections to the effect that apart being held guilty and convicted in cases bearing FIR No.105 dated 17.05.2016, the petitioner has been held guilty in another case bearing FIR No.235 dated 28.05.2022. That apart, two more case under Section 42A of Prison Act and one case registered under

Sections 148, 149, 307, 452, 212 and 216 of IPC read with Section 25 of Arms Act, are pending against him. Since he had been held guilty and convicted under Section 394 of IPC. Therefore, as per the provisions of Section 2(1)(g)(i)(1) of the Parole Act (For short- the **Act**), he falls within the category of Hardcore convict prisoner and therefore, as per Section 6(3) of the Act, he could not be released on parole, for a period of 5 years from the date of committing major jail offence. It is submitted that the impugned order was passed by respondent No.3 keeping all these circumstances into consideration and since period of 5 years from the date of latest offence had not expired, the petitioner could not be extended benefit of parole. Therefore, prayer was made for dismissal of the petition.

We have heard learned counsel for the parties and have perused the record.

A perusal of record reveals that the petitioner had been held guilty and convicted for the commission of offences punishable under Sections 394 and 397 read with Section 34 of IPC vide judgment dated 17.09.2018 passed in case bearing FIR No.105 dated 17.05.2016. As such, he certainly falls under the category of Hardcore prisoner as defined in Section 2(1)(g)(i) (1) of the Act. Now as per Section 6(3) of the Act, where a hardcore convict prisoner has completed 5 years of his sentence without committing any major jail offence or any cognizance offence during the last 5 years, such prisoner shall be entitled for parole at par with the convicted prisoner and period of 5 year shall be counted from the date of his latest offence or act which falls under the category of hardcore convicted prisoners.

In the instant case, it is clear from the reply filed by the respondents that the petitioner had committed jail offences on 07.08.2018 and

09.07.2020. Though he is on bail in both cases, however, without completing period of 5 years from the date of latest offence, he could not be extended benefit of parole. Since, a period of 5 years has not expired from the date when he had committed the jail offence on 28.05.2020, therefore, his request for release on parole had rightly been declined by the respondents. Therefore, we see not reason to set aside the order dated 11.02.2023 and to accept his prayer for temporary release at this stage.

Accordingly, the writ petition is dismissed.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

01.09.2023
Jyoti-IV

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