

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

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CRWP-7831-2023

Date of decision:-15.09.2023

Mukesh Kumar

.... Petitioner

Vs.

State of Haryana and others

...Respondents

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

Present: Mr. Prateek Rathee, Advocate for the petitioner.

Ms. Mamta Singla Talwar, DAG, Haryana.

Manisha Batra, J.

The present petition has been filed by the petitioner- Mukesh Kumar under Article 226 of the Constitution of India for setting aside order dated 24.08.2022, passed by the Commissioner, Faridabad Division, Faridabad (Annexure P-2) whereby the request of the petitioner for grant of parole had been rejected.

The present petition has been filed by the petitioner on the ground that he was held guilty and convicted by the Court of learned Sessions Judge, Faridabad vide judgment dated 05.12.2015 in case bearing FIR No.183, dated 23.07.2013, registered under Sections 302, 34 of IPC and Section 25 of Arms Act, registered at Police Station NIT, Faridabad.

Appeal bearing No.CRA-D-4-DB-2023 has been filed by him against the said judgment, which is pending before this Court.

The petitioner approached respondent No.2 to release him on parole for 4 weeks to meet his family members. Respondent No.2 after receiving the report from concerned police Station, did not recommend the parole case of the petitioner and rejected the same vide the impugned order dated 24.08.2022. Feeling aggrieved, he has filed the present petition.

Learned counsel for the petitioner argued that respondent No.2 had rejected his prayer for grant of parole without any justifiable ground. He has been extended benefit of bail in case bearing FIR No. 232 which was registered against him earlier and the complainant of that case had not implicated him in that case, therefore, it was argued that the impugned order was liable to be set aside.

On the other hand, learned State counsel submitted that the petitioner was given benefit of parole earlier also but had committed another offence of making attempt to commit murder and another FIR No. 232 was registered against him. There were chances of his disturbing the State security and maintenance of public order if extended benefit of parole. Therefore, he argued that petition did not deserve to be allowed.

Heard.

A perusal of order dated 24.08.2022 (Annexure P-2) which was passed by the respondent while rejecting the prayer of the petitioner for regular parole reveals that it was alleged against him that he had committed offence punishable under Sections 307 of IPC and 25 of Arms Act when benefit of parole was extended to him earlier and FIR No. 232 was registered against him. As he had violated the terms of parole during the release, therefore, he was not entitled to seek further parole.

The petitioner has placed on record, Annexure A-1, copy of order dated 23.02.2023, showing that in case bearing FIR No. 232, he had been extended benefit of bail by the court of learned Additional Sessions Judge, Faridabad, who observed that in the said case, the eyewitnesses and the complainant had exonerated the present petitioner and had not attributed any injury to him.

In view of this circumstance, when the complainant of case bearing FIR No. 232 has not implicated the petitioner, we are of the considered opinion that the prayer made by the petitioner for grant of parole should not have been declined by respondent No.2 on this ground. There is nothing on record to show that there would be any disturbance of law and order if benefit of parole is granted to the petitioner.

Taking all these circumstances into consideration, the petition is hereby allowed. Impugned order dated 24.08.2022 is set aside. The petitioner is ordered to be released on parole for a period of four weeks subject to his furnishing personal/surety bonds to the satisfaction of the concerned District Magistrate.

Concerned District Magistrate, may impose such conditions as may be necessary to secure the presence of the petitioner in jail after the parole is over and to ensure that the temporary release is not misused.

(RITU BAHRI) (MANISHA BATRA)
JUDGE JUDGE

15.09.2023

pooja saini

Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No