

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-368-2024
Date of Decision: 21.02.2024

VINOD ALIAS SONU
....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS
....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE VIKAS SURI

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

Ms. Tanisha Peshawaria, DAG, Haryana.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. This is a parole petition filed by the prisoner who has been sentenced to life imprisonment along with conviction for other offences. The petitioner challenges the order dated 16.12.2023 (Annexure P-1) whereby the Superintendent, District Jail Bhiwani has held the petitioner not eligible for any kind of parole or *furlough* at this stage and rejected his application for grant of parole under Section 12(3) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022.

2. The petitioner's application seeking parole/*furlough* was rejected treating him as a hardcore convicted prisoner only on the ground that while he was on parole earlier for six weeks, an FIR was registered against him under Sections 147, 149, 385, 427, 506 and 120-B IPC at Police Station Behal District Bhiwani. Learned counsel submits that definition of hardcore convicted prisoner as laid down in Section 2(1)(g) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022, does not include offences for which the petitioner alleged to have committed in the FIR which was registered while the petitioner was on parole. He also submits that as per the said definition he cannot be treated as a hardcore convicted prisoner.

3. *Per contra*, learned counsel appearing for the State has invited attention to the details of the under trial cases of the petitioner as well as details of the other decided cases. She submits that the petitioner is found to be a hardcore criminal and there are several cases registered against him including another case for offences under Section 147, 149, 302, 307, 332, 353, 506 and 120-B IPC at Police Station Siwani District Bhiwani, which is pending before the learned Additional Sessions Judge, Bhiwani. Another case under Section 302, 120-B, 216, 34 IPC and 25 of Arms Act, at Police Station Sadar Dabwali is also pending before the learned Additional Sessions Judge, Sirsa. That apart from this there were as many as ten cases in different FIRs registered against the petitioner for several offences committed by him, in four of them he has been convicted and he has already undergone sentence including one case FIR No.80/2017 under

Section 302, 307 & 120-B, 143 IPC and 25 of the Arms Act, thus, she submits that during the first parole granted for six weeks, he has again been found to be involved in criminal activities and an FIR was registered against him, thus, the petitioner is a hardcore criminal and the definition of hardcore prisoners, as defined under Section 2(1)(g) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022, would include a person like the petitioner. She has invited attention to the order dated 02.11.2023 (Annexure P-2) granting bail to the petitioner in case FIR No.201 dated 13.10.2023 under Sections 147, 149, 385, 427, 506, 120-B IPC registered at Police Station Behal, wherein it is noticed that the allegations against the petitioner and his co-accused are also that they extended threat to eliminate the complainant, which offence is punishable for a term that may extend to seven years. She has also invited attention to Section 2(1)(g) (8) & (9) and Section 6 to submit that the Superintendent has not committed any error in denying parole to the petitioner.

4. We have considered the submissions and also perused the definition given under Section 2(1)(g) which reads as under:-

(g) "hardcore convicted prisoner" means any prisoner-

(i) who has been convicted for any of the following offences:-

(1) robbery under section 392 or section 394 of the Indian Penal Code, 1860 (Central Act 45 of 1860); or

- (2) dacoity under section 395 or section 396 or section 397 of the Indian Penal Code, 1860 (Central Act 45 of 1860); or
- (3) kidnapping for ransom under section 364-A of the Indian Penal Code, 1860 (Central Act 45 of 1860); or
- (4) murder or attempt to murder for extortion under section 387 read with section 302 or section 387 read with section 307 of the Indian Penal Code, 1860 (Central Act 45 of 1860); or
- (5) rape or penetrative sexual assault or aggravated penetrative sexual assault or unnatural offence with murder under section 376 or section 377 read with section 302 of the Indian Penal Code, 1860 (Central Act 45 of 1860); or
- (6) rape or penetrative sexual assault or aggravated penetrative sexual assault or unnatural offence with a child below sixteen years of age; or
- (7) gang rape or rape as covered under section 376-A or section 376-C or section 376-D or section 376-E of the Indian Penal Code, 1860 (Central Act 45 of 1860); or
- (8) serial killing i.e. murder under section 302 of the Indian Penal Code, 1860 (Central Act 45 of 1860) in two or more cases in different First Information Reports (FIRs); or
- (9) murder under section 302 of the Indian Penal Code, 1860 (Central Act 45 of 1860), if the offender is involved in contract killing as apparent from the facts mentioned in the judgment of the case; or
- (10) lurking house trespass and convicted under section 458 or section 459 or section 460 of the

Indian Penal Code, 1860 (Central Act 45 of 1860); or

(11) offence under section 121 or section 121-A or section 122 or section 123 or section 124 or section 124-A of the Indian Penal Code, 1860 (Central Act 45 of 1860); or

(12) immoral trafficking under sections 3, 4 or 5 of the Immoral Traffic (Prevention) Act, 1956 (Central Act 104 of 1956) involving minors or under sections 366-A, 366-B, 372 or section 373 of the Indian Penal Code, 1860 (Central Act 45 of 1860); or

(13) offence under section 15(c) or section 17(c) or section 18(b) or section 19 or section 20(c) or section 21(c) or section 22(c) or section 23(c) or section 24 or section 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Central Act 61 of 1985); or

(14) escaping or helping to escape from lawful custody and convicted under section 224 or section 225 of the Indian Penal Code, 1860 (Central Act 45 of 1860);

(ii) who during a period of five years immediately before his conviction has earlier been convicted and sentenced for commission of one or more offences mentioned in Chapter XII or XVII of the Indian Penal Code, 1860 (Central Act 45 of 1860), except the offences covered under clause (i) above, committed on different occasions not constituting part of the same transaction and as a result of such conviction has undergone imprisonment at least for a period of twelve months:

Provided that if a conviction which has been set aside in appeal or revision then any imprisonment

undergone in connection therewith shall not be taken into account for the above purpose; or

(iii) who has been sentenced to death penalty or imprisonment till natural life; or

(iv) who has been found in possession or detected of using wireless communication device or its components or any unauthorised electronic device inside the jail premises; or

(v) who fails or failed to surrender himself within a period of ten days from the date on which he should have so surrendered on the expiry of the period of parole or furlough for which he was released; or

(vi) who commits a cognizable offence punishable with imprisonment for a period of seven years or above during confinement in the jail or during his temporary release under this Act; or

(vii) who has been punished more than two times with a major punishment by the Superintendent Jail concerned for committing any jail offence or convicted in judicial proceedings by the concerned Court; or

(viii) who has been detained or convicted under the National Security Act, 1980 (Central Act 65 of 1980), the Terrorist and Disruptive Activities (Prevention) Act, 1987 (Central Act 28 of 1987), the Official Secrets Act, 1923 (Central Act 19 of 1923), the Foreigners Act, 1946 (Central Act 31 of 1946) or any Act (Central or State) for control of organised crime;”

5. In the opinion of this Court, the various means mentioned in Section 2(g)(i) are only inclusive and cannot be said to be exclusive to other instances where a person may be involved in several criminal cases and convictions. A person may be a hardcore convicted prisoner

but the instances mentioned in Section 2(1)(g) may not include the

said instance. “For example, in Section 2(1)(g)(i)(8) it is mentioned that a hardcore convicted prisoner means serial killing i.e. “*murder under Section 302 of the Indian Penal Code, 1860 (Central Act 45 of 1860) in two or more cases in different First Information Reports (FIRs); or*” 2(1)(g)(vi) which mentions “*who commits a cognizable offence punishable with imprisonment for a period of seven years or above during confinement in the jail or during his temporary release under this Act*”.

6. What the definition essentially means is to examine whether the concerned convicted prisoner is a hardcore criminal or not.

7. Taking into consideration the various offences for which the petitioner is facing trial and also various offences for which he has already been convicted and has undergone imprisonment, no doubt is left in the mind of this Court than to believe that the petitioner is a hardcore convicted prisoner and he cannot be allowed to take advantage of the concerned particular offences not being mentioned in the instances of hardcore convicted prisoner in Section 2(g). For instance, in the present case, the petitioner is facing trial in one case under Section 302 IPC. He has also been convicted in another case under Section 302 IPC and has already undergone the sentence. He is facing imprisonment in the third case under Section 302 IPC that apart there are cases registered against him for various offences under IPC. It is true that in some of the cases he has also been acquitted. However, it is apparent that the person is incorrigible as when he was

released earlier on parole for six weeks, he has again allegedly committed an offence for which FIR was registered against him and he was lodged back in jail.

8. It is also to be noticed that grant of parole or *furlough* is a privilege to be given to a convicted prisoner and it is a right available to him maintaining good conduct. The right of grant of regular parole and *furlough* should be only available considering his antecedents.
9. In view of the discussion as above, we do not find any reason to interfere with the order dated 16.12.2023 passed by Superintendent, District Jail Bhiwani.
10. The petition is dismissed.
11. Pending, application(s), if any, stand disposed of.

(SANJEEV PRAKASH SHARMA)

JUDGE

February 21, 2024
Sangeeta

(VIKAS SURI)
JUDGE

Whether reasoned/speaking:
Whether reportable:

Yes/No
Yes/No