

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

226

CRWP-409-2024

DATE OF DECISION: 08.02.2024

KUNDAN RAM

... Petitioner (s)

Versus

STATE OF HARYANA AND OTHERS

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MS. JUSTICE KIRTI SINGH**

Present: Mr. Hoshiar Singh Jaswal, Advocate for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has challenged the order dated 08.12.2023 (Annexure P-3) passed by respondent No.1 whereby his application for temporarily release on parole has been rejected.

2. Learned counsel for the petitioner submits that the petitioner has been convicted in FIR No.161 dated 08.05.2017 under Section 6 of the POCSO Act along with Section 452 IPC and sentenced to undergo rigorous imprisonment for 15 years. The case of the petitioner for his release on parole had been recommended by the jail authorities to the District Magistrate, Aurangabad, Bihar where the petitioner resides but the same had been rejected on the ground that the petitioner falls under the category of hardcore prisoner and can be released on parole for a specific reason/ground. He, however, submits that besides the aforementioned case, there is no other criminal case against the petitioner. The petitioner has never availed the benefit of parole till date.

3. Learned State counsel has filed reply by way of an affidavit of Deputy Superintendent, District Jail, Yamuna Nagar which is taken on record. Copy thereof has been furnished to the learned counsel for the petitioner. He while referring to the reply submits that the case of the petitioner for release on parole has been rejected on the report of the District Magistrate Aurangabad, Bihar.

4. Heard.

5. The petitioner had been convicted under Section 6 of the POCSO Act along with Section 452 IPC and sentenced to undergo rigorous imprisonment for 15 years. The case of the petitioner for release on parole was recommended by the jail authorities but the same has been declined on account of adverse report from the Superintendent of Police, Aurangabad, Bihar on the basis of which the District Magistrate, Aurangabad has not recommended the release of the petitioner on parole. The basis of opposition to the release of the petitioner on parole as expressed by the District Magistrate is that the petitioner falls under the category of Hardcore prisoner and he can be released on parole only for a specific reason or special ground. In the reply filed on behalf of respondents No.1 to 3, it is stated that the petitioner has undergone an actual sentence of 06 years and 08 months and 20 days and total sentence of 08 years including remission, therefore, as per Section 3(1)(2) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022, the petitioner is eligible for consideration of his case for grant of parole. He is not involved in any other criminal case. Therefore, it is difficult to comprehend as to on what basis, the District Magistrate, Aurangabad (Bihar) and the Superintendent of Police, Aurangabad (Bihar) had arrived at the conclusion that the petitioner falls under the category of 'Hardcore prisoner' especially when besides the afore-noted case, he is not involved in any other criminal case. Even a hardcore prisoner is entitled to the concession of regular parole after a period of 05 years. The petitioner has undergone an actual sentence of over 6 years. It is necessary for the petitioner to maintain his contact with his family which would facilitate his reformation as responsible citizen at the time of his release. The impugned order rejecting the case of the petitioner for regular parole is unsustainable. It would, thus, be in the interest of justice if the petitioner is granted parole for a period of 05 weeks.

6. Consequently, the petition is allowed and the impugned order dated 08.12.2023 (Annexure P-3) passed by respondent No.1 is set aside. The petitioner shall be granted parole for a period of 05 weeks subject to his

furnishing necessary surety bonds to the satisfaction of the competent authority. He shall surrender in the concerned Jail by 05:00 p.m. after a period of 05 weeks from his release.

7. Pending application(s), if any, also stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

(KIRTI SINGH)
JUDGE

08.02.2024
SwarnjitS

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