

Date of Decision : 25-04-2024

Versus

.....Respondent(s)

Mr. Ashok Kumar Sehrawat, DAG Haryana.

2. By way of the present petition, petitioner has challenged the order dated 13.03.2024 passed by the Commissioner, Gurugram Division, District Gurugram rejecting the claim of the petitioner for regular parole. Petitioner was convicted for offences punishable under Sections 120-B, 364A, 394, 397 IPC and Section 25 of the Arms Act in FIR No.599 dated 16.11.2002 at Police Station Civil Lines, Rohtak and was sentenced to undergo life imprisonment. To the conviction as on maintained by this Court as well in the appeal, the details of the cases pending against the petitioner as well as jail offences as spelled in the reply filed by way of an affidavit which reads as under:-

SAPNA GOYAL
2024.04.30 10:23
I attest to the accuracy and
integrity of this document

Rohtak in case FIR No 599/2002 U/s 364-A,343,394,506,120-1,34,216,365 IPC & 25/54/59 Arms Act (Convicted U/s 120-8, 364-A/120-8, 394/397 IPC 25 A. Act) P.S Civil Line Rohtak to undergo life imprisonment and to pay fine of Rs. 16,000/- and in default of payment of fine, he shall further to undergo 03 year and 03 months R.I. (Fine not paid). The above said convict filed an appeal against the above judgment vide CRA-317-DB of 2005 in the Hon'ble High Court, Chandigarh which was dismissed by the Hon'ble Court vide order dated 18-03-2010.

(a) Details of other convicted cases:

(1) convicted and sentenced on dated 22-01-2019 by the Ld. Court of Ms. Mansi Dhiman, Judicial Magistrate First Class, Bahadurgarh to undergo R.I for 06 Months in case FIR No 15 dated 28/01/2011, U/s 8/9 Haryana Good Conduct Prisoner's Act 1988, P.S Line par, Bahadurgarh, Jhajjar, the said sentence awarded to the convict shall be in addition and shall run consecutively to the substantive sentence awarded to him in case FIR No 599 dated 16-11-2002 registered at P.S Civil Line Rohtak for offences punishable under Sections 364A/394/397/120-B IPC & 25 of Arms Act.

(b) Details of other cases registered against the said convict :-

(i) FIR No 248 dated 19-10-2017, U/s 307, 34 IPC 25/54/59 A. Act P.S Line Par Bahadurgarh, Jhajjar on bail.

(ii) FIR No 217 dated 20-06-2018 U/s 398, 401 IPC & 25/54/59 A. Act P.S Rajendera Park, Gurugram - Acquitted on 13-09-2022.

(iii) FIR No 137 dated 12-06-2017 U/s 307, 511, 452 IPC 25/54/59 A. Act P.S Line Par Bahadurgarh, Jhajjar - Acquitted on 11-10-2023.

(c) Jail offences:

On dated 12-03-2020 the petitioner was quarreled with other inmates of District Jail Jhajjar and he was punished for keeping separate for 30 days and the same was Judicially appraised by the District and Sessions Judge Jhajjar vide order No 8659 dated 16-05-2020.”

3. The petitioner was released on agriculture parole vide order dated 01.12.2010 and was required to surrender before District Jail Authorities Jhajjar on 13.01.2011. Petitioner absconded and failed to surrender. He would be arrested only on 21.06.2018 in FIR No.217 of 2018 registered for offences punishable under Sections 398 and 401 of IPC and Sections 25 of the Arms Act. Since then, the petitioner is behind bars.

4. Petitioner has moved an application seeking regular parole which stands rejected vide impugned order holding that the petitioner having violated the conditions of the parole earlier in time does not deserve to be granted concession of parole as he has been opined to be threat to security reasons by Sub Divisional Magistrate, Narela, Delhi as he falls within the category of “*hardcore*” criminal.

5. Counsel for the petitioner relies upon Section 6(3) of the Parole Act 2022 Act to submit that the petitioner having completing 5 years of sentence without committing any major jail offence or any cognizable offence during the last 5 years. He further submits that as per the reply also the case of the petitioner stands admitted by the respondent.

6. Per contra, Mr. Ashok Kumar Sehrawat, DAG Haryana, however submits that the petitioner is a habitual offender and the competent authority having opined to be a threat of security does not deserve to be granted relief of regular parole. Moreso, in the light of his earlier conduct.

7. I have heard rival contentions of the parties and have carefully gone through the records of the case.

8. In the impugned order dated, 13.03.2024, no reasoning has been assigned apart from bald assertion that the petitioner does not deserve parole for security reasons. There is no material discussed by the competent authority to form such opinion. Apart therefrom, Para 5 of the reply reads as under:-

“That, it is further submitted before this Hon'ble High Court that the petitioner has remained absconded from parole for 07 Years 05

Months and 07 Days and during the absconded period the petitioner committed the cognizable offence punishable with imprisonment for a period of seven years and case FIR No 217/2018 U/s 398,401 IPC & 25 A. Act P.S Rajendera Park, Gurugram has been registered against the petitioner.

However, he has undergone the mandatory period of imprisonment as per section 6(3) of the Parole Act 2022, which is as under :-

"6(3) Notwithstanding anything contained in sub-section (1), a hardcore convicted prisoner, who has not been awarded death penalty or life imprisonment till natural life and has completed five years of his sentence (including maximum two years under trial period), without committing any major jail offence or any cognizable offence during the last five years, shall be entitled for emergency parole or regular parole or furlough at par with convicted prisoners. Such period of five years shall be counted from the date of his latest offence or act which falls under the category of hardcore convicted prisoner:

Provided that a hardcore convicted prisoner who has been sentenced for imprisonment till natural life shall be eligible for emergency parole or regular parole at par with convicted prisoners only after completion of seven years of imprisonment after conviction:

Provided further that if the hardcore convicted prisoner so released temporarily violates any condition of parole or furlough or commits any cognizable offence, he shall be debarred from such release for next three years.

9. In view of the above, respondents admit that the petitioner would be covered by Section 6(3) of the Parole Act, 2022 as he has undergone mandatory period of imprisonment.

10. In view of the aforesaid facts, the impugned order dated 13.03.2024 is hereby set aside. Competent authorities are directed to decide the application afresh within a period of 10 days.

11. Disposed off accordingly.

25-04-2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned Yes
Whether Reportable : No