

BHUPENDER SINGH

.....Petitioner

Versus

STATE OF HARYANA AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Sushil Sheoran, Advocate for the petitioner.
Mr. Gagandeep Singh Chhina, AAG, Haryana.

HARKESH MANUJA, J. (ORAL)

By way of present criminal writ petition filed under Articles 226/227 of Constitution of India, prayer has been made for quashing of the order dated 08.04.2024 passed by the Superintendent of Prison, District Prison Jhajjar whereby, the prayer made by petitioner for grant of regular parole stands declined while relying upon Section 11(1) of Haryana Good Conduct prisoners (Temporary Release) Act, 2022.

2. Briefly stating the petitioner having been implicated in FIR No.168 dated 28.07.2020 registered under Section 20 of NDPS Act at Police Station City Dadri, District Charkhi Dadri against recovery of 2 kgs 948 gms of charas was convicted/sentenced by the learned Addl. Sessions Judge, Charkhi Dadri on 14.11.2022 and sentenced on 17 11. 2022.

3. An appeal i.e. CRA–D–1218–2022 preferred at the instance of petitioner was dismissed by this Court vide judgment dated 19.02.2024. On account of the petitioner, not keeping good health, a prayer was made by him for grant of parole in terms of the provisions of Section 11 (1) of Haryana Good Conduct prisoners (Temporary Release) Act, 2022, however, the same came to be declined vide order dated 08.04.2024.

4. Impugning the aforesaid, learned counsel for the petitioner submits that no doubt the petitioner was involved in one more case under the provisions of NDPS Act vide FIR No.168 dated 28.07.2020 registered under Section 20 of NDPS Act at Police Station City Dadri, District Charkhi Dadri, wherein, he was behind the bars having not been granted concession of regular bail, however, the same could not have been treated as an absolute bar for granting the benefit of parole in favour of petitioner. For the said purpose, learned counsel for the petitioner relies upon a decision dated 12.04.2019 passed by this Court in case of “**Arun Vs. State of Haryana**” reported as 2019(2) RCR (Criminal) 896. Relevant Paras 13 and 14, thereof are reproduced hereunder:-

“13. Regarding the objection that as the petitioner is not on bail in one case his case for parole cannot be considered, all that needs to be said is that the Counsel for the petitioner has stated that he would apply for bail in the said case. Obviously the order for release of the petitioner on parole will not be given effect to till he secures bail in that case.

14. Accordingly, this petition is allowed. The impugned order is set aside. The respondents are directed to release the petitioner on parole for a period of four weeks subject to his furnishing bond/surety to the satisfaction of the District Magistrate/Competent Authority. It is further directed that the petitioner shall not be released till he has secured bail in all the cases. The petitioner shall surrender before the Jail authorities on the expiry of four weeks of his release.”

5. On the other hand, learned State counsel vehemently opposes the prayer made in the present petition while referring to the antecedents of the petitioner and in terms of statutory bar under Section 11(1) of Haryana Good Conduct prisoners (Temporary Release) Act, 2022, the petitioner being in custody in relation to another FIR bearing No.168 dated 28.07.2020 registered at Police Station City Dadri, District Charkhi Dadri under Section 20 of NDPS Act. Learned State counsel

submitted that though the order of granting parole at this stage, in favour of petitioner would be a futile exercise as in any case he cannot be released unless he is granted the concession of regular bail in the other FIR and thus, at this stage, the present petition is not maintainable.

6. I have heard counsel for the parties and gone through the paper book. I find substance in the submission made on behalf of the petitioner.

7. A perusal of decision rendered by this Court in case of “**Arun**” (**supra**) shows that the same squarely covers the case of the petitioner and accordingly the present petition is disposed of in view of decision rendered therein. As such the order dated 08.04.2024 passed by the Superintendent of Prisons, District Prison Jhajjar is here by set aside and the petitioner is directed to be released on emergency parole as prayed by him for a period of 4 weeks from the date when he is granted concession of regular bail by the competent Court in FIR No.168 dated 28.07.2020 subject to his furnishing bail bonds/surety bonds to the satisfaction of District Magistrate/competent authority.

8. It is further directed that the petitioner shall not be released till he secures concession of bail in all the cases pending against him. The petitioner is directed to surrender before the Jail authorities on expiry of 4 weeks of his release.

01.05.2024

(HARKESH MANUJA)

Tejwinder

JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No