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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-10278-2024 (O&M)
Date of decision: 23.10.2024

Salim

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Manjeet Garhwal, Advocate for
Mr. Sahil Choudhary, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. Instant criminal writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of Mandamus to direct the respondents to consider the case of the petitioner for grant of parole for a period of 10 weeks under Section 3 of Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 (for short 'Act of 2022').
2. Briefly, the facts are that the petitioner was convicted and sentenced to rigorous imprisonment for a period of 20 years along with a fine of Rs.25,000/- vide judgment dated 06.07.2022 and order of sentence dated 07.07.2022 passed by learned Additional Sessions Judge/Fast Track Court

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(POCSO), Panipat in the case stemming from FIR No.1 dated 04.01.2018 under Sections 363, 366-A, 376 of the Indian Penal Code, 1860 (for short 'IPC') and Section 4 of the Protection of Children from Sexual Offences Act, 2012, registered at Police Station Bapoli, Panipat. Aggrieved by the same, the petitioner had approached this Court by filing an appeal i.e. CRA-D-669-2022, which was dismissed vide order dated 20.12.2023. The petitioner had moved an application before respondent No.2 seeking parole for a period of 10 weeks in order to meet his ailing father but the same was dismissed.

3. Learned counsel for the petitioner, *inter alia*, contends that the petitioner has been in custody since 04.01.2018 and has undergone about 07 years out of total sentence of 20 years. The petitioner has availed furlough twice and surrendered back in time, without any untoward incident. Further, the Act of 2022 requires the Superintendent Jail to forward the eligible cases to District Magistrate along with a copy to the Deputy Commissioner of Police or the Superintendent of Police. The application of the petitioner for grant of parole was dismissed by respondent No.2 without assigning any reasons for the same, in spite of the fact that the petitioner is eligible in terms of Sections 11 & 12 of the Act of 2022 and is not involved in any other case. Learned counsel places reliance on the judgments rendered by this Court in ***Bansi Lal Vs. State of Punjab and others, 2016(4) RCR (Criminal) 1017*** and ***Kamaljit Singh Vs. State of Punjab and others*** passed in ***CRWP-3213-2023*** decided on 13.07.2023.

4. Notice of motion.



5. On asking of the Court, Ms. Geeta Sharma, DAG, Haryana accepts notice on behalf of the respondent-State. She further submits that the petitioner has been convicted for a grave and heinous offence and his release on parole would endanger the security of the State. There is an apprehension that he may jump parole and commit similar offences. However, she could not controvert the fact that the petitioner fulfills the conditions as required by the Act of 2022 for grant of regular parole.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, this Court is of the opinion that while grant of parole is a concession and not a right, the petitioner is eligible for the same, in terms of Section 11 of the Act of 2022. The petitioner has been behind bars since 04.01.2018. In order to truly reform a prisoner, periodic temporary release on parole for short duration is necessary in his own interest to help him peacefully reintegrate into the society.

7. Any legislation put in place by the State for temporary release is equally applicable to all convicts. The State is duty bound to act fairly and proceed strictly according to the said legislation in a manner that does not discriminate between similarly situated persons, in the absence of an intelligible differentia. Non-arbitrariness is a facet in Article 14 of the Constitution of India and the State and all its agencies are required to abide by it. Once a convict is found to be eligible for parole in terms of the Act of 2022, the State cannot deny him this concession without recording due reasons for the same.

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8. There is nothing on the record that reflects that the application of the petitioner for parole was dismissed by respondent No.2 based on any objective assessment. The father of the petitioner is ill and requires tending to, as reflected by his medical records appended as Annexure P-1. In view of the rights enshrined under Article 21 of the Constitution of India, the petitioner cannot be deprived of his right to meet and look after their family members, without any justifiable reason.

9. In view of the above, present criminal writ petition is disposed of with a direction to the competent authority to consider and decide case of the petitioner afresh, strictly in accordance with the applicable provisions of law, within a period of four weeks from the date of receipt of certified copy of this order.

[HARPREET SINGH BRAR]
JUDGE

23.10.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No