

3. Learned counsel for the petitioners *inter alia* contends that the petitioners are undergoing the sentence of 07 years awarded to them in case bearing FIR No. 37 dated 01.03.2000 registered under Sections 395, 397 of Indian Penal Code at Police Station Mullana, District Ambala and are confined in Central Jail, Ambala. The appeal filed by the petitioners against the judgment of conviction has been dismissed by this Court in CRA-S-1102-SB of 2003 and the petitioners have undergone 03 years, 08 months and 11 days of actual sentence in the said case. Learned counsel submits that petitioners had applied for grant of emergency parole on medical grounds, to meet their family members and some other necessary domestic grounds and had submitted applications vide Annexure P-1 under the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, but the respondent No. 3- Superintendent, District Jail, Ambala has rejected their case.

4. Per contra, learned State counsel opposes the grant of parole to the petitioners on the ground that their case falls under the “Hardcore Prisoners” as per Section 2(g)(i)(2) of Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 (hereinafter to be referred to as ‘The Act, 2022’), in case, they are released on parole, they are likely to abscond and there is apprehension of breach of Security of State/Maintenance of Public Order and learned State counsel has filed status report dated 18.01.2024, by way of an affidavit of Superintendent, Central Jail, Ambala.

5. In rebuttal, learned counsel for the petitioners has relied upon the judgment passed by Division Bench of this Court passed in ***Sonu @ Arun Versus State of Haryana and Others*** and CRWP-1177-2015 decided on **08.12.2015** titled as ***Sanjay Vs. State of Haryana and Others***, wherein considering the similar circumstances, this Court allowed parole to the

petitioners.

6. After hearing the learned counsel for the parties and perusal of the record, I find that the opinion formed by the Superintendent, Central Jail, Ambala is not based upon any objective assessment made by the jurisdictional police authorities. The cases of the petitioners are duly supported by a resolution of Panchayat of their village and in view of the provisions contained under Article 21 of the Constitution of India, petitioners cannot be deprived of their rights to meet and look after their family members.

7. The case of the petitioners was rejected in view of Section 2 (g) (i)2 of the Act, 2022. However, in view of the law settled by the Hon'ble Supreme Court in **State of Haryana Vs. Jagdish (2010) 4 SCC 216** and the fact that the petitioners were convicted and sentenced by learned Additional Sessions Judge, Ambala, in the year 2003, the provisions of the Act, 2022, cannot be applied retrospectively.

8. Accordingly, the present petitions are allowed and the impugned orders dated 25.10.2023 passed in **CRWP-11468-2023**, dated 19.10.2023 (wrongly mentioned as 25.10.2023) passed in **CRWP-11490-2023** and dated 09.11.2023 passed in **CRWP-11664-2023** are set aside.

9. The petitioners namely Golu, Latta and Meeta are directed to be released on parole for a period of 08 weeks from the date of their release on their furnishing requisite surety bonds to the satisfaction of the District Magistrate, Ambala or any other condition which may be imposed by the District Magistrate Ambala.

(HARPREET SINGH BRAR)
JUDGE

January 19, 2024
Ajay Goswami

- (i) Whether speaking/reasoned
- (ii) Whether reportable

Yes/No
Yes/No