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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP-2130-2025

Date of Decision:- 14.05.2025

ANISH

....Petitioner

Vs.

STATE OF HARYANA AND ORS

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Varinder Singh Rana, Advocate for the petitioner.

Ms. Ambika Sood, Addl. A.G, Haryana.

AMARJOT BHATTI, J. (Oral)

1. Petitioner Anish filed criminal writ petition under Article 226 of Constitution of India praying for setting aside order dated 16.03.2024 (Annexure P-1) passed by respondent No.3 vide which regular parole to the petitioner has been declined on the ground that he falls under the category of 'hard core prisoner' as per provision of Section 2 (1) (g) (iii) of Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 without considering the law laid down in Criminal Writ Petition No.1517 of 2024 titled as "Sumit Kumar Vs. State of Haryana and another" decided on 12.03.2024, with a prayer that impugned order is not sustainable in the eyes of law and the same has been passed without considering the facts and law relating to parole and furlough, with further direction to release the petitioner on 10 weeks parole or any other direction which the Court may deem fit and



proper under the given facts and circumstances of the case.

2. Learned counsel for petitioner pointed out that petitioner was involved in FIR No.64 dated 20.02.2017 under Sections 364-A, 376-D, 379-A, 120-B, 343, 376, 411 and 506 of IPC, P.S. Sadar Sonipat, District Sonipat and was convicted for life imprisonment for remainder of natural life along with fine of Rs.68,000/- vide judgment of conviction dated 28.11.2018 and order of sentence dated 30.11.2018. Appeal against this judgment has been dismissed on 09.12.2021. He was also involved in FIR No.77 dated 10.03.2016 under Sections 365, 376 (2) and 506 IPC and Section 4 of POCSO Act, 2012 registered at P.S. Sadar Sonipat in which he was convicted for 10 years RI along with fine of Rs.18,000/- vide judgment of conviction and order of sentence dated 23.10.2018 and 30.10.2018. Appeal against this judgment is still pending. Petitioner maintained good conduct in the jail and while undergoing sentence he has not availed any parole till date. He had applied for regular furlough of 10 weeks which has been declined by respondent No.3 vide impugned order dated 16.03.2024 (Annexure P-1) by relying on the provisions of Haryana Good Conduct Prisoners (Temporary Release) Act, 2022. In fact case of petitioner is covered under Haryana Good Conduct Prisoners (Temporary Release) Act, 1988. Therefore, case of the petitioner was not rightly considered by respondent No.3 and the impugned order dated 16.03.2024 (Annexure P-1) is liable to be set aside.

3. Status report has been filed. Factual position is not disputed. It is reiterated that present petitioner falls in the category of 'hardcore prisoner' as per Section 2 (1) (g) (iii) of Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 since he has been sentenced to imprisonment till remainder of natural life. At present, he has undergone 6 years 3 months 24



days as on 25.03.2025 having been convicted on 30.11.2018. He has not completed 7 years of imprisonment after conviction. Therefore, his case was rightly rejected. Moreover, it is pointed out that present petitioner cannot claim regular parole as a matter of right. State has to consider all the facts and circumstances of the case including the law and rules prevailing at the time of passing of said order. It is submitted that petition filed by petitioner is without merits and deserves dismissal.

4. I have considered the aforesaid factual position. It is not disputed that present petitioner was convicted in FIR No.64 dated 20.02.2017 under Sections 364-A, 376-D, 376, 343, 379-A, 120-B, 411 and 506 of IPC, P.S. Sadar Sonipat, District Sonipat vide judgment of conviction dated 28.11.2018 and order of sentence dated 30.11.2018 for remainder of natural life along with fine. Criminal appeal against the aforesaid judgment is also dismissed 09.12.2021. Apart from this, he was also convicted in FIR No.77 dated 10.03.2016 under Sections 365, 376 (2) and 506 IPC and Section 4 of POCSO Act, 2012 vide judgment dated 23.10.2018 and order of sentence dated 30.10.2018 and criminal appeal against this judgment is still pending. It is not controverted that present petitioner has not been granted parole till date. Perusal of impugned order dated 16.03.2024 (Annexure P-1) clearly indicates that case of petitioner was considered under the provisions of Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 which received assent of Governor of Haryana on 31.03.2022 and was published in Haryana Government Gaz. (Extra) on April, 11 of 2022. Prior to this, Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 was in force. Admittedly, in both the aforesaid cases, present petitioner was convicted and sentenced prior to coming into force of Haryana Good



Conduct Prisoners (Temporary Release) Act, 2022. Therefore, case of present petitioner is required to be considered under the provisions of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 which was in force at the time of judgment of conviction passed in the aforesaid cases. Aforesaid factual position is also not disputed by learned counsel representing State of Haryana. There is no dispute about it that no prisoner can claim temporary release of parole as a matter of right. His case has to be considered by the competent authority as per Rules and the law applicable to him at the relevant time.

Therefore, without expressing my mind on merits, present petition filed by petitioner is accepted and impugned order dated (Annexure P-1), is accordingly set aside with the direction to the Competent Authority to consider the case of petitioner afresh seeking regular parole within a period of four weeks.

5. Petition is, accordingly, disposed of.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

14.05.2025

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:

Yes/No.

Whether reportable:

Yes/No