
(2013) 08 P&H CK 0504

In the Punjab And Haryana At Chandigarh

Case No : Criminal W.P. No. 1305 of 2013 (O and M)

Jai Singh

APPELLANT

Vs

The State of Haryana and Another

RESPONDENT

Date of Decision : 08-08-2013

Acts Referred:

Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 — Section 3, 3(1)(c)
Penal Code, 1860 (IPC) — Section 304

Citation : (2013) 08 P&H CK 0504

Hon'ble Judges : Ritu Bahri, J

Bench : Single Bench

Advocate : Deepak Mishra, DAG, Haryana, for the Respondent

Final Decision : Disposed Off

Judgement

Ritu Bahri, J.—Petitioner is seeking temporary release u/s 3(1)(c) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 as amended for a stipulated period of six weeks. The petitioner was convicted and sentenced on 6.10.2008 by the Additional Sessions Judge, Bhiwani for life which was reduced to 10 years u/s 304 Part-I IPC on dismissal of the appeal.

2. The petitioner has completed 04 years, 02 months and 16 days as on 19.6.2013.

3. This application for temporary release was initiated by respondent No. 2 on 5.3.2013. Vide order dated 10.5.2013 the District Magistrate, Bhiwani, rejected the said application on the ground that the petitioner has a major son of 32 years of age who can do the agriculture work and as per the report of the Superintendent of Police, Bhiwani, there was apprehension of breach of peace on his being released. There is a specific assertion in the petition that the petitioner has two children. One son is 32 years of age and is married and staying in Hisar and the other son aged 28 years is doing his medical course at Hisar. So the order of rejection on the ground that his elder son is doing the agriculture work

at Bhiwani cannot be sustained. The Jamabandi (Annexure P3) shows that the land in the petitioner's name is in Bhiwani.

4. In the reply filed by the respondents this fact has not been disputed.

5. Section 3 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 is reproduced as under:-

3. Temporary release of prisoners on certain grounds:-

(1) The State Government may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2), any prisoner, if the Government is satisfied that-

(a) a member of the prisoner's family has died or is seriously ill or the prisoner himself is seriously ill; or

(b) the marriage of prisoner himself, his son, daughter, grandson, granddaughter, brother, sister, sister's son or daughter is to be celebrated; or

(c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land or his father's undivided land actually in possession of the prisoner; or

(d) it is desirable to do so for any other sufficient cause....

6. One of the condition for grant of parole is that it is necessary for ploughing, sowing or harvesting the land actually in possession of the prisoner.

7. In the present case, it is not being denied that the prisoner is in possession of agriculture land in Bhiwani. However, his application has been declined on the ground that his elder son is doing the work of agriculture at Bhiwani whereas he is staying in Hisar with his wife and two minor children.

8. Since the factual position is not being disputed, the order dated 10.5.2013 passed by the District Magistrate, Bhiwani, (Annexure P1) is set aside and a direction is given to the respondents to pass appropriate orders within two weeks keeping in view that the land is in possession of the prisoner for the purpose of agriculture and it is necessary that the prisoner be released on Agriculture parole. Petition is disposed of.