

Before Surya Kant & Sudhir Mittal, JJ.

GURDEEP SINGH—*Petitioner*

versus

STATE OF HARYANA AND OTHERS—*Respondents*

CWP No. 1374 of 2017

December 07, 2017

Haryana Good Conduct Prisoners (Temporary Release) Act, 1988—S. 3—Recovery of mobile phone from inmate without any other material—Cannot categorize him as ‘hardcore prisoner’—Parole—Petition disposed of with direction to consider release on parole.

Held that we have heard learned counsel for the parties and gone through the record. While this Court, in no uncertain terms, holds that the jail inmates cannot be allowed to keep mobile phones or such other gadgets etc which are oftenly used to commit professional crimes like demand of ransom, kidnapping etc.etc.. Nevertheless, it is an integral part of the jail reforms that the inmates should be provided with telephone facilities to connect themselves with their family, nears and dears. Such a facility can be made available by the jail authorities through a land line number(s). In this backdrop, it is difficult to accept that the mere recovery of mobile phone from an inmate against whom there is not even a whisper that he ever misused the phone either to blackmail some one or for demanding ransom or he involved himself in any other nature of crime, would be sufficient to categorise him as a 'hardcore' prisoner. It is only in a case where the inmate is found to have misused the mobile facility for committing another crime while inside the jail, that he should be put into the category of 'hardcore criminals' and be deprived of his statutory right of parole. The petitioner, in the absence of any such allegation, does not fall in that exceptional category. We, thus, set aside the objection raised by the respondents and direct the Competent Authority to consider the case of the petitioner for his release on agricultural parole. The appropriate order shall be passed within one week from the date of receipt of a certified copy of this order.

(Para 3)

Ravinder Bangar, Advocate
for the petitioner

Kuldeep Tewari, Addl. A.G., Haryana

SURYA KANT, J.

(1) The petitioner has been sentenced to undergo RI for life in a case FIR No.69 dated 01.05.2013, under Sections 148, 149, 302, 120-B IPC and Sections 25/27/54/59 of the Arms Act, registered at Police Station Radaur, District Yamuna Nagar. His criminal appeal against conviction and sentence is pending in this Court.

(2) The petitioner is a permanent resident of village Daulatpur Kalesra, Tehsil Jagadhri, District Yamuna Nagar and owns agricultural land in the said village. As per the certificate furnished by Sarpanch of village, Annexure RT-1, the residents of the area have no objection in case the petitioner is released on parole for the purpose of sowing wheat crop. It appears that instead of approaching the authorities for grant of parole, the petitioner has directly rushed to this Court. The respondents have filed affidavit-cum-written statement today in Court, claiming that the petitioner cannot be released on parole as a mobile set was recovered from his custody while in jail, which renders him in the category of 'hardcore prisoner'

(3) We have heard learned counsel for the parties and gone through the record. While this Court, in no uncertain terms, holds that the jail inmates cannot be allowed to keep mobile phones or such other gadgets etc. which are oftenly used to commit professional crimes like demand of ransom, kidnapping etc.etc.. Nevertheless, it is an integral part of the jail reforms that the inmates should be provided with telephone facilities to connect themselves with their family, nears and dears. Such a facility can be made available by the jail authorities through a land line number(s). In this backdrop, it is difficult to accept that the mere recovery of mobile phone from an inmate against whom there is not even a whisper that he ever misused the phone either to blackmail some one or for demanding ransom or he involved himself in any other nature of crime, would be sufficient to categorise him as a 'hardcore' prisoner. It is only in a case where the inmate is found to have misused the mobile facility for committing another crime while inside the jail, that he should be put into the category of 'hardcore criminals' and be deprived of his statutory right of parole. The petitioner, in the absence of any such allegation, does not fall in that exceptional category. We, thus set aside the objection raised by the respondent and direct the Competent Authority to consider the case of the petitioner for his release on

agriculture parole. The appropriate order shall be passed within one week from the date of receipt of a certified copy of this order.

(4) Disposed of.

Sanjeev Sharma, Editor