

CRWP-10685-2026

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

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JUDGMENT RESERVED ON	JUDGMENT PRONOUNCED ON	FULL/OPERATIVE PART	UPLOADED ON
18.09.2026	12.10.2026	FULL	22.10. 2026

DEEPAK @ DEEPU

... Petitioner

VS

STATE OF HARYANA AND OTHERS

.... Respondents

CORAM: JUSTICE ANOOP CHITKARA
JUSTICE HARMEET SINGH DEOL

Present: Mr. Rajesh Nain, Advocate for the petitioner
Ms. Rajni Gupta, Addl. AG, Haryana.

ANOOP CHITKARA, J.

1. Challenging the arbitrary denial of parole by the District Magistrate concerned, the convict has come up before this Court under Article 226¹/227² of the Constitution of India read with Section 528³ BNSS, 2023, seeking the issuance of a Writ in the nature of Certiorari.⁴
2. The petitioner was arrested in FIR No. 586, dated 20.06.2017, registered at Police Station City Jind under Sections 364, 302, 201, and 34 IPC; 3(I2)(V) of the SC/ST Act; and Section 6 of the POCSO Act.
3. Vide judgment dated 09.01.2020, the learned Additional Sessions Judge, Jind, convicted the petitioner and sentenced him to undergo **imprisonment till the whole of the biological life without parole**, with a fine of Rs.23,000/-.
4. According to the custody certificate dated 17.09.2026, he has been in custody

¹ 226. Power of High Courts to issue certain writs.—

² 227. Power of superintendence over all courts by the High Court.—

³ §528. Nothing in this Sanhita shall be deemed to limit or affect the inherent powers of the High Court to make such orders as may be necessary to give effect to any order under this Sanhita, or to prevent abuse of the process of any Court or otherwise to secure the ends of justice.

⁴ The word *certiorari* comes from Law Latin, meaning "to be more fully informed." A writ of *certiorari* orders a lower court to deliver its record in a case so that the higher court may review it. The writ of certiorari is a common law writ, which may be abrogated or controlled entirely by statute or rules of the court.



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for a total of 11 years, 05 months, and 13 days.

5. The petitioner had sought parole for eight weeks under the provisions of the Haryana Good Conduct Prisoner (Temporary Release) Act, 2022, on the grounds that his mother passed away long ago; his father is in custody under FIR No. 958 dated 24.06.2025; his sister is preparing for the UPSC exam, and he needs to look after her because there is no other family member to do the same.

6. Perusal of the file shows that parole was rejected principally because the sentencing order directs the convict (petitioner) to undergo imprisonment for the petitioner's whole biological life without parole and because his temporary release was considered incompatible with the nature of that sentence and the interests of society. Additionally, the petitioner was punished for misusing the Prison Inmate Calling System [PICS] on Sep 12, 2025, by making a conference call to another undertrial prisoner.

7. The legality of that refusal must be examined in light of the governing principles concerning parole and the statutory framework applicable in Haryana, i.e., under the provisions of the Haryana Good Conduct Prisoner (Temporary Release) Act, 2022.

8. In Sunil Fulchand Shah v. Union of India and Others, [2000] 1 SCR 945; 2000-INSC-74, Feb 16, 2000; a five-judge bench of the Supreme Court holds,

[7.] 'Parole' is a form of "temporary release" from custody, which does not suspend the sentence or the period of detention, but provides conditional release from custody and changes the mode of undergoing the sentence. In this country, there are no statutory provisions dealing with the question of grant of parole. The Code of Criminal Procedure does not contain any provision for grant of parole. By administrative instructions, however, rules have been framed in various States, regulating the grant of parole. Thus, the action for grant of parole is generally speaking an administrative action. [962-G; E]

9. In Smt. Poonam Lata v. M.L. Wadhawan and Others, [1987] 2 SCR 1123; 1987-INSC-124, Apr 22, 1987, the Supreme Court holds,

[3.] Parole is the release of a prisoner from a penal or correctional institution after he has served a part of his sentence under the continuous custody of the State and under conditions that permit his incarceration in the event of misbehaviour. It is a grant of partial liberty or lessening of restrictions to a convict prisoner and does not change the status of the prisoner.

10. In Maru Ram Etc. Etc. v Union of India and Anr., [1981] 1 SCR 1196; 1980-INSC-212, Nov 11, 1980, a five-judge bench of the Supreme Court holds,

[p.1250] [12.] In our view, penal humanitarianism and rehabilitative desideratum warrant liberal paroles, subject to security safeguards, and other humanizing strategies for inmates so that the dignity and worth of

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the human person are not desecrated by making mass jails anthropoid zoos. Human rights awareness must infuse institutional reform and search for alternatives.

11. In State of Gujarat & Anr. v. Lal Singh @ Manjit Singh & Ors.; [2016] 4 S.C.R. 816; 2016-INSC-463, June 29, 2016, the Supreme Court holds,

[p. 837] [33.] So far as direction for grant of parole is concerned, we find that the learned Judge has directed parole to be granted for three months forthwith. In Sunil Fulchand Shah v. Union of India and others [(2000) 3 SCC 409] the Constitution Bench while dealing with the grant of temporary release or parole under Section 12(1) and Section 12(1-A) of the Conversation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPOSA Act) had observed that the exercise of the said power is administrative in character but it does not affect the power of the High Court under Article 226 of the Constitution. However, the constitutional court before directing the temporary release where the request is made to be released on parole for a specified reason and for a specified period should form an opinion that request has been unjustifiably refused or where the interest of justice warranted for issue of such order of temporary release. The Court further ruled that jurisdiction has to be sparingly exercised by the Court and even when it is exercised, it is appropriate that the Court should leave it to the administrative or jail authorities to prescribe the conditions and terms on which parole is to be availed of by the detenu.

12. In Home Secretary (Prisons) and ors., v. H. Nilofer Nisha; [2020] 1 S.C.R. 456, Jan 23, 2020, the Supreme Court holds,

[p. 473] [27.] We would also like to point out that the grant of remission or parole is not a right vested with the prisoner. It is a privilege available to the prisoner on fulfilling certain conditions. This is a discretionary power which has to be exercised by the authorities conferred with such powers under the relevant rules/regulations. The court cannot exercise these powers though once the powers are exercised, the Court may hold that the exercise of powers is not in accordance with rules.

13. In Deepak Kumar v. State of Punjab and others, CRWP 7882 of 2022, Feb 27, 2023, Punjab and Haryana High Court observed,

[13.] Both 'Parole' and 'Furlough' are considered as reformatory processes. These provisions were introduced with a view to humanizing the prison system. Parole is not a right, and is given to a prisoner for a specific reason. It may be denied to a prisoner even when he makes out a sufficient case, if the competent authority is satisfied that releasing the convict would not be in the interest of society. Parole can only be granted in event of some emergency and circumstances, such as the death of a family member, the marriage of a family member, a family member's major illness, or any other emergency situation. 'Furlough' is similar to 'parole', but with some significant differences. It is given in cases of long-term imprisonment. The period of furlough granted to a prisoner is treated as remission of his sentence. Though, unlike parole, furlough is seen as a matter of right for a prisoner, to be granted periodically irrespective of any reason, and merely to enable the prisoner to retain family and social ties, and to counter the ill-effects of long time imprisonment but as a matter of fact, even 'furlough' is not an absolute right and grant of furlough is subject to the conditions as prescribed, the most significant being the period already spent in



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custody and his conduct during such period.

14. In the case of Rammanohar Lohia v. State of Bihar, 1966 SCR (1) 709, Sep 7, 1965, the Supreme Court held,

One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State.

15. The above-mentioned judicial precedents establish that parole is a conditional and temporary release, not an absolute right. The power to grant it is primarily administrative and must be exercised under the governing statute and rules. Judicial interference remains exceptional but is warranted where the request has been unjustifiably refused, material circumstances have been ignored, or the decision rests on considerations that do not rationally bear on public order, State security, or the likelihood of misuse.

16. The sentencing order had an explicit condition that the convict (Petitioner) shall have to undergo imprisonment for **the whole of the biological life without parole.** The appeal is stated to be pending in this Court. The petitioner must have the condition on the sentence modified, and as long as the condition in ASJ, Jind's order dated Jan 09, 2020 is either modified or set aside, granting parole shall amount to defying the trial Court's reasoning, probably because of which the Death Sentence was not imposed in such a heinous offense.

17. This condition imposed by ASJ, Jind regarding imprisonment for the whole of the biological life without parole is in furtherance of the remedy set forth in *Swamy Shraddhananda* to use death penalty as little as possible, really in the rarest of the rare cases by substituting a death sentence by life imprisonment with direction that convict must not be released from prison for the rest of his life

18. It is pertinent to refer to Swamy Shraddhananda alias Murali Manohar Mishra v. State of Karnataka, [2008] 11 S.C.R. 93, [E-SCR] 2008-INSC-853, July 22, 2008, where the Hon'ble Supreme Court holds,

[66]. The matter may be looked at from a slightly different angle. The issue of sentencing has two aspects. A sentence may be excessive and unduly harsh or it may be highly disproportionately inadequate. When an appellant comes to this court carrying a death sentence awarded by the trial court and confirmed by the High Court, this Court may find, as in the present appeal, that the case just falls short of the rarest of the rare, category and may feel somewhat reluctant in endorsing the death sentence. But at the same time, having regard to the nature of the crime, the Court may strongly feel that a sentence of life imprisonment that subject to remission normally works out to a term of 14 years would be grossly disproportionate and inadequate. What then the Court should



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do? If the Court's option is limited only to two punishments, one a sentence of imprisonment, for all intent and purposes, of not more than 14 years and the other death, the court may feel tempted and find itself nudged into endorsing the death penalty. Such a course would indeed be disastrous. A far more just, reasonable and proper course would be to expand the options and to take over what, as a matter of fact, lawfully belongs to the court, i.e., the vast hiatus between 14 years' imprisonment and death. It needs to be emphasized that the Court would take recourse to the expanded option primarily because in the facts of the case, the sentence of 14 years imprisonment would amount to no punishment at all.

[67]. Further, the formalization of a special category of sentence, though for an extremely few numbers of cases, shall have the great advantage of having the death penalty on the statute book but to actually use it as little as possible, really in the rarest of the rare cases. This would only be a reassertion of the Constitution Bench decision in Bachan Singh (supra) besides being in accord with the modern trends in penology.

[68]. In light of the discussions made above we are clearly of the view that there is a good and strong basis for the Court to substitute a death sentence by life imprisonment or by a term in excess of fourteen years and further to direct that the convict must not be released from the prison for the rest of his life or for the actual term as specified in the order, as the case may be.

19. It shall be relevant to refer to the following provisions of The Haryana Good Conduct Prisoner (Temporary Release) Act, 2022,

Section 3 “Temporary release of convicted prisoner on regular parole on certain conditions”

(1). The competent authority shall grant regular parole to a convicted prisoner subject to such conditions and procedure as specified under sections 11 and 12.

(2). The period for which a convicted prisoner may be released under this section shall be ten weeks in a calendar year cumulatively and the convicted prisoner may avail it in two parts:

Provided that in case of delivery of a female convicted prisoner, the period of release under this section shall be six months, beginning from one month prior to the expected date of delivery as certified by the Medical Officer of the jail.

(3). Convicted prisoner who has not completed one year of sentence after conviction shall not be eligible for regular parole:

Provided that the restriction shall not be imposed on old aged convicted prisoner of seventy years or above in case of male and sixty-five years or above in case of female.

(4). The report of the Deputy Commissioner of Police or the Superintendent of Police, as the case may be and recommendations by the District Magistrate shall be submitted to the competent authority within time limit as specified under this Act, for temporary release of a convicted prisoner on regular parole.

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(5). The period of release under this section shall not count towards the actual sentence of a prisoner. No ordinary remission shall be granted for this period.

Section 5 “Temporary release of a Convicted prisoner on emergency parole on certain conditions”

(1). The competent authority shall grant emergency parole to a convicted prisoner subject to such conditions and procedure as specified under sections 11 and 12. Emergency parole shall be granted to a convicted prisoner any time irrespective of the period of sentence undergone by him if a member of the convicted prisoner’s family has died or is in serious condition or the convicted prisoner himself is in serious condition.

(2). The competent authority shall verify the facts through in-charge of the police station concerned or through a jail officer not below the rank of Assistant Superintendent Jail who shall submit his report within twenty-four hours. The facts of the serious condition of the convicted prisoner or his family member shall be certified by the Medical Officer concerned and countersigned by the Civil Surgeon concerned.

(3). The period for which a convicted prisoner may be released under this section shall be decided by the competent authority which shall not exceed four weeks in a calendar year cumulatively and the period may be in parts.

(4). The period of release under this section shall not count towards the actual sentence of a prisoner. No ordinary remission shall be granted for this period.

Section 6 “Temporary release of a Convicted prisoner on custody parole and special provisions for hardcore convicted prisoners”

(1). The competent authority shall grant custody parole to a convicted prisoner subject to such conditions and procedure as specified under sections 11 and 12.

(2). Notwithstanding anything contained in sections 3, 4 and 5, no hardcore convicted prisoner shall be entitled to be released on emergency parole or regular parole or furlough:

Provided that a hardcore convicted prisoner may be granted custody parole for attending funeral of his family members or marriage of his children or siblings.

(3). Notwithstanding anything contained in sub-section (1), a hardcore convicted prisoner, who has not been awarded death penalty or life imprisonment till natural life and has completed five years of his sentence (including maximum two years under trial period), without committing any major jail offence or any cognizable offence during the last five years, shall be entitled for emergency parole or regular parole or furlough at par with convicted prisoners. Such period of five years shall be counted from the date of his latest offence or act which falls under the category of hardcore convicted prisoner:

Provided that a hardcore convicted prisoner who has been sentenced for imprisonment till natural life shall be eligible for emergency parole

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or regular parole at par with convicted prisoners only after completion of seven years of imprisonment after conviction:

Provided further that if the hardcore convicted prisoner so released temporarily violates any condition of parole or furlough or commits any cognizable offence, he shall be debarred from such release for next three years.

20. Parole is not a matter of right, and the competent authority may deny it for valid reasons. Nevertheless parole exists so that a convicted person can maintain family and social ties and to meet urgent personal and domestic needs. The seriousness of the offense is relevant to the conditions imposed and may justify refusal when specific circumstances support it.

21. In the present case, the petitioner’s asserted need to look after his sister does not displace the express condition in the subsisting sentencing order nor does it establish an emergency of the kind contemplated under the statutory scheme. The competent authority’s refusal therefore does not call for interference in the exercise of writ jurisdiction.

22. For the reasons stated above, we find no merit in the petition, which is accordingly dismissed. However, the dismissal shall not preclude the petitioner from making a fresh representation before the competent authority if a genuine urgency arises in the future or seeking modification or setting aside of the condition “to undergo imprisonment till the whole of the biological life, without parole.” Nothing stated herein shall be construed as an expression on the merits of the pending appeal.

23. All pending miscellaneous applications, if any, stand disposed of.

24. **PETITION DISMISSED**

(ANOOP CHITKARA)
JUDGE

(HARMEET SINGH DEOL)
JUDGE

Oct 12, 2026
Jyoti Grover/Anju Rani

Whether speaking/reasoned	YES
Whether reportable	YES