

Harinder Singh @ Bhura vs. State of Haryana and others

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

**CRWP No. 1535 of 2015 (O&M)
Date of decision: 17.11.2015.**

Harinder Singh @ Bhura

..... Petitioner.

Versus

State of Haryana and others

.....Respondents.

**CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present: Mr. K.P.S. Virk, Advocate, for the petitioner.

Mr. Naveen Kaushik, Addl. A.G., Haryana, for the respondents.

S.S. SARON, J.

Learned counsel for the State has filed reply by way of affidavit of Shri Sher Singh, Superintendent of Prison, District Prison, Karnal, on behalf of respondents No. 1 to 3. The same is taken on record.

Heard learned counsel for the parties.

The petitioner seeks temporary release on parole for a period of four weeks to make arrangement for the wedding of his niece-Manjeet Kaur, which is fixed for 22.11.2015. The petitioner has been convicted by the learned Judge, Special Court, Karnal, for committing an offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985. He has been sentenced to undergo rigorous imprisonment for fourteen years and pay fine of Rs.1,50,000/- (Rupees one lac fifty thousand only). Criminal appeal, i.e. CRA-D No. 303-DB of 2010, filed by the petitioner is pending in this Court.

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The wedding of the niece of the petitioner, namely, Manjeet Kaur daughter of Gurdeep Singh, is to be solemnized on 22.11.2015. The petitioner is her maternal uncle and is required to make arrangements for the wedding ceremony. The wedding card (Annexure P-1) has been placed on record. Therefore, it is prayed that he be granted four weeks' parole.

In the reply, that has been filed, it is submitted that the petitioner has already availed four weeks parole from 28.08.2015 to 26.09.2015 for getting admission in school for his children. The said parole was granted in terms of Section 3 (1) (d) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 ('Act' - for short). It is submitted that as per Rule 11(3) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 ('Rules' - for short), the petitioner is to be granted parole only once either under section 3 (1) (b) or section 3 (1) (d) of the Act and not for both separately during the calendar year except as provided under rule 8 of the Rules.

We have given our thoughtful consideration to the matter.

In the reply, that has been filed, the marriage of the niece of the petitioner, which is to be solemnized on 22.11.2015, has not been denied. The objection of the respondent is that the petitioner has already availed parole from 28.08.2015 to 26.09.2015 for school admission of his children under section 3 (1) (d) of the Act. Rule 11 of the Rules relates to 'Bonds'. Sub-rule (3) of Rule 11 reads as follows:

“(3) Under section 3(2)(b) a convict shall be granted parole only for once either under section 3(1)(b) or section 3(1)(d)

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and not for both separately during the calendar year except as provided under rule 8 as above.”

Rule 8 of the Rules relates to 'sufficient cause' and under the said rule it is provided that 'sufficient cause' may be considered from amongst the following reasons, namely:

- “(i) admission in school/colleges/professional institutions of the dependents of the convict;*
- (ii) medically scheduled delivery of wife of the convict;*
- (iii) house repairs/new construction of house owned by the convict. Parole for house repair shall be granted only once in three years;*
- (iv) marriage of prisoner's brother's son or daughter to be celebrated in case his brother is not alive.”*

The petitioner is applying for parole for the marriage of his niece, which would be covered by the provisions of section 3 (1) (d) of the Act, which provides for temporary release of prisoners where it is desirable to do so for other sufficient cause.

The restriction placed by Rule 11 (3) of the Rules would not apply where a 'sufficient cause' is made out. Therefore, we are of the considered view that there is no bar for grant of second parole in a calendar year where sufficient cause has been shown, which is not disputed by the respondents in the present case.

In the circumstances, the criminal writ petition is allowed and the petitioner, on his furnishing personal and surety bonds to the

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satisfaction of the competent authority, shall be temporarily released on parole for a period of four weeks. The Superintendent, District Jail, Karnal-respondent No. 3, shall specify the date on which the petitioner is to surrender in the jail after the expiry of the period of his parole.

(S.S. SARON)
JUDGE

(AMOL RATTAN SINGH)
JUDGE

17.11.2015
Ramesh

Note: Whether to be referred to the Reporter: Yes/No.