

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

**Crl. Writ Petition No. 1580 of 2015 (O&M)
Date of decision : 26.11.2015**

Monu @ Ajay

..... Petitioner

versus

State of Haryana & Ors.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

**Argued by: Mr. Sachin Gupta Ladwa, Advocate
for the petitioner.**

Mr. Deepak K. Grewal, DAG Haryana.

ANITA CHAUDHRY, J.

Petitioner Monu @ Ajay is undergoing ten year sentence in District Jail, Sonapat, in FIR No. 314 dated 16.08.2013, Police Station City Sonapat for committing offence under Sections 366, 506 IPC and under Section 6 of POCSO Act. His appeal is stated to have been pending before this Court.

He filed an application seeking his release to attend the marriage of his brother Amit fixed for 28.11.2015. The ceremonies commence on 26.11.2015. It was his case that his father is old and suffering from age related diseases and there is no one in the family to look after the arrangements. The application was declined vide impugned order dated 21.10.2015, Annexure P-5, leading to the filing of the instant petition.

Learned State counsel has filed the reply opposing the prayer.

The petitioner's plea for emergency parole was dismissed on the ground that as per Section 2(aa)(i)(6) of Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, he falls within the definition of "hardcore prisoner" and according to Section 4(1) of the Haryana Government Parole Rule, 2007 a prisoner can apply for parole only after he has completed one year of his imprisonment after conviction and has earned his first annual good conduct remission under the Act and since the petitioner was convicted on 25.11.2014, he was not eligible for parole.

Section 3 of the Act *ibid* stipulates temporary release of prisoners on certain grounds, viz. serious illness of prisoner or serious illness or death of prisoner's family, or marriage of the prisoner himself, his son, daughter, grandson, grand-daughter, brother, sister, sister's son or daughter or for ploughing, sowing or harvesting or carrying any agricultural pursuits. An exception clause 3(d) has been inserted for the authorities to consider the temporary release where sufficient cause was shown to do so.

The petitioner is seeking emergency parole to enable him to attend the marriage of his brother. There is no serious dispute that the marriage is fixed. Invitation card (Annexure P-3) is available on file. The State has not disputed the marriage in their reply. The plea of completion of one year of imprisonment after conviction is no more available to the State as by now the petitioner has completed his one year of sentence after imprisonment. In the reply dated 25.11.2015, it is nowhere

mentioned that the conduct of the petitioner in jail was not good.

In the case of **Mahavir Vs. State of Haryana & Ors.**
2012(2) Law Herald, 1851, a Coordinate Bench of this Court
had held as follows:-

"The emergency parole is granted to the convict to attend various situations over which he has no control i.e. death or fixation of marriage of a relation. To say that the sister should postpone the marriage of her son or daughter, till the completion of one year of imprisonment by the conviction so that she/ he is able to attend the marriage, is demanding more than required. Rule 4(1) of the Rules may be invoked in case of parole which is to be granted for attending agricultural pursuits or house repairs which are recurring periodical feature in the life of human being and over which the convict has control or can plan in advance."

In view of the discussion above, the ground on which the relief was denied is neither justified nor tenable.

For the aforesaid reasons, the instant petition is partly allowed. The petitioner is ordered to be released on emergency parole for two days i.e. 27.11.2015 and 28.11.2015 on his furnishing adequate bail bonds and surety bonds to the satisfaction of District Magistrate, Sonapat to attend the marriage of his brother. The order be complied with immediately. The petitioner would surrender before the jail authorities on 29.11.2015. There would be no request for further extension.

November 26, 2015
Jiten

(ANITA CHAUDHRY)
JUDGE