

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

**Crl. Writ Petition No. 1620 of 2015 (O&M)
Date of decision : 16.11.2015**

Jasvir Singh @ Jasbir Singh @ Kala

..... Petitioner

versus

State of Punjab & 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. Nandan Jindal, Advocate
for the petitioner.**

Mr. K.S. Aulakh, AAG Punjab.

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ANITA CHAUDHRY, J.

The petitioner is undergoing ten years sentence in Central Jail, Patiala in FIR No. 111 dated 29.03.2013, under Section 15 of Narcotic Drugs and Psychotropic Substances Act. He was convicted on 09.09.2015 and his appeal is stated to be pending before this Court.

He has filed an application seeking parole to make arrangements of marriage of his daughter, fixed for 19.11.2015. The ceremonies commence on 18.11.2015. The application was not replied by the Authorities concerned, leading to the filing of the instant petition. The petition is accompanied by the endorsement by the Panchayat recommending the release of petitioner.

In the reply filed by the State, the only ground taken

is that the petitioner had to maintain good conduct after his conviction at least for four months as per Government Notification dated 23.09.2003 and since he had not completed four months of sentence, he is not entitled to the relief claimed.

The State does not dispute the marriage. Nothing had been stated in the reply that whatever tenure the petitioner was having in jail, is/was blemished.

This Court time and again had held in catena of judgments that the instructions and the orders shall not have any over-riding effect over the provisions of Punjab Good Conduct Prisoners (Temporary Release) Act. Reliance can be placed on **Gulzar Singh Vs. State of Punjab 1996(3) RCR(Crl.) 702.** Even otherwise, it is the marriage of daughter of the petitioner and merely because he had not completed four months' sentence as stipulated in instructions (Annexure R-1).

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:-

"Thus, in view of the settled legal proposition that the Rules cannot override the provisions of the Act, the State was not justified in declining parole of the petitioner on the ground that he has not completed the requisite period of one year of his imprisonment. Even otherwise, the stand taken by the State is very harsh. 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. Hence, stand of the State that the petitioner has not completed one year of his imprisonment is untenable.”

In view of the discussion above, the ground on which the relief has been sought to be declined, 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 five days on his furnishing adequate bail bonds and surety bonds to the satisfaction of District Magistrate, Patiala to attend the marriage of his daughter. The parole period would commence from 18.11.2015 and the petitioner is required to surrender before the jail authorities on 22.11.2015.

November 16,2015
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(ANITA CHAUDHRY)
JUDGE