

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

CRWP No. 1721 of 2015

Date of Decision: 05.12.2015

Raju

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

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

Present: Ms. Loveleen Dhaliwal, Advocate,
for the petitioner.

Mr. Naveen Kaushik, Addl. A.G., Haryana.

S.S. Saron.J.

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

The petitioner seeks temporary release on parole for a period of four weeks for attending the joint weddings of his nephew and niece which are to be solemnized according to the wedding card (Annexure P-1) on 07.12.2015 and 08.12.2015.

The petitioner has been convicted and sentenced to undergo life imprisonment, besides, pay a fine of Rs. 5,000/- and in default thereof undergo rigorous imprisonment for three months in Complaint Case No. 30/2007 of 21.04.2009. Against the said order of conviction and sentence an appeal i.e. CRA-D-709-DB-2009 was

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filed by the petitioner, which has been dismissed by this Court on 06.11.2013. The petitioner is the maternal uncle of Meena and her brother Ravikant whose joint marriages are to be solemnized on 07.12.2015 and 08.12.2015. Therefore, he has prayed for four weeks temporary release on parole.

In the reply that has been filed, it is submitted that the petitioner has availed four weeks parole from 07.09.2015 to 06.10.2015 for admission of his children. The said parole was given in terms of Section 3 (1) (d) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 ('Act'-for short). Therefore, according to Rule 11 (3) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 ('Rules' – for short), the petitioner is not entitled for another parole.

We have given our thoughtful consideration to the matter.

In the reply that has been filed it is not disputed that the marriages of the nephew and niece of the petitioner are to be solemnized on 07.12.2015 and 08.12.2015. The Sarpanch Gram Panchayat Lahrara vide his report (Annexure P-2) has certified regarding the solemnization of marriages of nephew and niece of the petitioner and also given its recommendation to release him on parole.

The provisions of Section 3 (1) (b) of the Act provides for temporary release on parole in case the marriage of prisoner himself, his son, daughter, grand-son, granddaughter, brother, sister, sisters' son or daughter is to be solemnized. In the present case, the

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marriages of the sister's son and daughter both are to be solemnized. Therefore, the case of the petitioner falls under the provisions of Section 3 (1) (b) of the Act. The said relief has however, been denied to the petitioner as he has already availed temporary release for admission of his children for the period from 07.09.2015 to 06.10.2015. It is submitted that in view of Rule 11 (3) of the Rules parole can only be granted once in a year. Rule 11 (3) of the Rules relates to 'Bonds' Sub-rule (3) of Rule 11 reads as follow:

“(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) 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.”*

In terms of Rule 11 (3) of the Rules parole is to be granted once either under Section 3 (1) (b) or Section 3 (1) (d) of the Act and not for both separately in a calendar year. However,

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'sufficient cause' in terms of Rule 8 is an exception. The intent of Rule 8 is that for a 'sufficient cause' parole can be granted even more than once in a calender year as an exception to Rule 11 (3). The requirement for grant of parole is that there should be 'sufficient cause' which has been elaborated in Rule 8. Release for the marriage of sister's son or daughter is in fact a sufficient cause in terms of Section 3 1 (b) of the Act itself. Therefore, the temporary release on parole is not to be denied to the petitioner merely on the ground that he had earlier availed of parole for the admission of his children in the calender year.

In the circumstances, the criminal writ petition is allowed and the petitioner on his furnishing personal bond and surety to the satisfaction of the District Magistrate Sonipat shall be released temporarily on parole for a period of four weeks. The Superintendent Jail, Karnal (respondent No. 3) shall specify the date on which the petitioner is to surrender in jail after the expiry of the period of his parole.

A copy of this order be given **dasti** on the payment of usual charges for urgent application..

(S.S. SARON)
JUDGE

(AMOL RATTAN SINGH)
JUDGE

December 05, 2015
nitin