

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP No.367 of 2015
Date of decision: 11.03.2015

Nirmal Singh

.....Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM : HON'BLE MR.JUSTICE S.S. SARON
HON'BLE MR.JUSTICE SURINDER GUPTA

Present: Mr. Raj Kumar Chugh, Advocate for the petitioner.

S.S. SARON, J.

The petitioner by way of present writ petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure prays for grant of ten days parole to him from 10.03.2015 till 20.03.2015 for celebrating the marriages of his niece Rajwinder Kaur and nephew Malkeet Singh, which are to be solemnized on 12.03.2015 and 14.03.2015 respectively.

The petitioner has been convicted by the learned Special Judge, Sri Muktsar Sahib, vide judgment and order dated 15.12.2014, for the offences punishable under Section 376-D of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act,

2012. He has been sentenced to undergo rigorous imprisonment for 20 years, besides, pay a fine of ₹25,000/- and in default thereof to undergo imprisonment for a period of one year for the offence under Section 6 of Protection of Children from Sexual Offences, Act, 2012 and no sentence has been passed under Section 376-D of Indian Penal Code in view of the greater degree of sentence passed under Section 6 of Protection of Children from Sexual Offences, Act, 2012.

The temporary release on parole has been sought on the ground that the petitioner is maternal uncle of Rajwinder Kaur and Malkeet Singh respectively, whose marriages are to be solemnized on 12.03.2015 and 14.03.2015. It is stated that the presence of the present petitioner is necessary for performing their marriages being their maternal uncle. Joint invitation card (Annexure P1) regarding marriage of Rajwinder Kaur and Malkeet Singh is placed on record. Sister of the petitioner namely Sukhdeep Kaur, her daughter Rajwinder Kaur and son namely Malkeet Singh have deposed affidavits dated 7.02.2015 (Annexures P2 to P4) giving undertakings that if the petitioner is released on parole there would be no harm to peace and harmony in the area.

We have given our thoughtful consideration to the matter. It may be noticed that the affidavits (Annexures P2 to P4) that have been deposed by Sukhdeep Kaur, Rajwinder Kaur and Malkeet Singh respectively were deposed on 7.02.2015 i.e. almost a month earlier. However, despite the fact that the petitioner was aware of the marriages at

least as early as 7.02.2015, he has not approached the jail authorities for temporary release on parole in accordance with the provisions of Section 3 (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 which provides for release if it is desirable for any sufficient cause. The petitioner being aware of the marriages as far as back as 7.02.2015 was liable to approach the jail authorities in the first instance for his temporary release on parole. The vakalatnama in the present case that has been filed was attested by the Deputy Superintendent, Central Sudhar Ghar, Faridkot on 6.03.2015.

The criminal writ petition has been filed in this Court on 9.03.2015 for the marriages to be solemnized on 12.03.2015 and 14.03.2015. At this short notice, it would be improper to ask the respondents to respond especially when the petitioner himself has been dormant at least since 7.02.2015 and has approached this Court at such a belated stage.

In the circumstances, it may be noticed that there is no representation for seeking temporary release on parole before the jail authorities for which the petitioner has an equally alternative and efficacious remedy.

Therefore, we find no merit in the present petition and the same is accordingly dismissed.

It will be, however, open to the petitioner to approach the jail authorities for his temporary release in accordance with the provisions of

Section 3 (d) of the Punjab Good Conduct Prisoners (Temporary Release)
Act, 1962.

(S.S. SARON)
JUDGE

March 11, 2015
Manoj Bhutani

(SURINDER GUPTA)
JUDGE