

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP No.113 of 2016
Date of decision: 28.01.2016.

ParveenPetitioner

Vs.

State of Haryana and others.Respondents

CORAM: HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MR. JUSTICE GURMIT RAM

Present: Mr. A.S.Trikha, Advocate for the petitioner.

Ms.Tanisha Peshwaria, DAG,Haryana for the State.

S.S.SARON,J.

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

The petitioner by way of the present petition under Article 226 of the Constitution of India seeks emergency parole for four weeks on the ground that the marriage ceremony of his sister's daughter namely Vandana is to be solemnized on 29.01.2016. The copy of the marriage card (Annexure P-5) has been placed on record.

The petitioner was arrested in case FIR No.300 dated 06.10.2012 registered at Police Station Sadar, Panipat for the offences punishable under Sections 364, 302, 201 and 34 of the Indian Penal Code ('IPC' – for short). He has been convicted and

sentenced to life imprisonment by the learned Additional Sessions Judge, Panipat on 15.01.2015. The Criminal Appeal No.D-445-DB of 2015 is pending in this Court. The petitioner is the only brother of his sister Sukesh, who is married to Ranbir Singh. The marriage of the daughter of Sukesh and Ranbir Singh is to be solemnized. The sister of the petitioner namely Sukesh has addressed application (Annexure P-2) to the Superintendent, District Jail, Karnal for release of her brother (petitioner) on parole. The said application is endorsed by the Sarpanch, Gram Panchayat, Jhattipur (Panipat). The petitioner himself, it is stated, has filed an application (Annexure P-1) for his release on parole.

In the reply filed by the respondents, it is stated that the petitioner was convicted by the learned Additional Sessions Judge, Panipat vide order dated 15.01.2015. He has been sentenced to undergo life imprisonment; besides, pay a fine of Rs.15000/- and in default thereof to undergo rigorous imprisonment for one month. It is submitted that the petitioner has not submitted any application to the Superintendent, District Jail, Karnal for grant of parole to attend the marriage (Bhaat) ceremony of his sister's daughter, which is scheduled to be held on 29.01.2016 at Village Jhattipur, Tehsil Samalkha, District Panipat. It is also stated that the petitioner has not earned First Annual Good Conduct Remission, which he will earn on 01.02.2016 provided his conduct remains good till then. It is submitted that earning of Annual Good Conduct Remission is

necessary for applying of parole in view of provisions of Rule 4 (1) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 ('Rules' – for short). It is also submitted that the statutory Rules impose a legal bar for consideration of the case of the petitioner for temporary release.

We have given our thoughtful consideration to the matter.

In terms of the reply that has been filed, the marriage of the sister's daughter of the petitioner on 29.01.2016 has not been denied; besides, the petitioner has been convicted by the learned Additional Sessions Judge, Panipat on 15.01.2015 and the period of one year has lapsed since then. The requirement of Rule 4(1) of the Rules is that the petitioner shall be entitled to apply for parole only after he has completed one year of imprisonment after conviction and has earned his Annual Good Conduct Remission under the Act. Till date his conduct in the jail is not stated to be in any manner bad; besides, he has admittedly completed one year of imprisonment.

In terms of Section 3 (1) (b) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 ('Act' – for short), it is provided that a prisoner may be released on temporary basis for the marriage of prisoner himself, his son, daughter, grand-son, grand-daughter, brother, sister, sister's son or daughter is to be celebrated. Therefore, the petitioner is entitled for parole for the marriage of his sister's daughter in terms of statutory provisions of the Act. Besides, he has

completed one year of imprisonment and the bar contained in Rule 4 (1) of the Rules would not apply.

In the circumstances, we allow the writ petition with the direction to grant temporary release to the petitioner on parole in accordance with the provisions of Section 3 (1) (b) of the Act for the period provided in terms of Section 3(2) of the Act for which the petitioner shall furnish necessary surety to the satisfaction of the competent authority.

(S.S. SARON)
JUDGE

January 28, 2016
A.Kaundal

(GURMIT RAM)
JUDGE