

278.

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

CRWP-1330-2016

Date of decision: 26.10.2016

Rajiv @ Raja

... Petitioner

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Nandan Jindal, Advocate,
for the petitioner.

Mr. Sultan Singh Gill, DAG, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Article 226 of the Constitution of India read with Section 3(1)(b)&(d) and Section 2-A of the Punjab Good Conduct Prisoners (Temporary Release), Act, 1962 (*wrongly written as Punjab Good Conduct Prisoners (Temporary Release), Act, 1988*) is to issue an order to respondents to release the convict/petitioner on parole to enable him to perform his marriage which is to be solemnized on 27.10.2016.

Learned counsel for the petitioner submits that petitioner is undergoing life imprisonment in case FIR No. 133 dated 12.01.2006 u/s 364, 302, 380, 381, 404, 34 IPC, P.S. Division No.3, Ludhiana. The marriage of the petitioner is scheduled for 27.10.2016 and he is ready to furnish heavy surety in the event of grant of parole.

Learned State counsel has filed the custody certificate of the

petitioner alongwith status report by way of affidavit dated 24.10.2016 of Rupinder Kaur Sra, PPS, Assistant Commissioner of Police (West), Ludhiana in court, which are taken on record.

As per affidavit, the factum of marriage scheduled to be solemnized on 27.10.2016 is not disputed but it has been stated that the petitioner is a '**hardcore criminal**' and is involved in as many as 17 FIRs. The details of such cases are as under:-

- “i) *FIR No.133 dated 12.01.2006 u/s 364, 302, 380, 381, 404, 34 IPC, P.S. Division No.3, Ludhiana. (convicted life imprisonment)*
- ii) *FIR No.68 dated 27.07.2005, u/s 302, 307, 459, 460 IPC, P.S. Division No.3, Ludhiana. (Acquitted on 08-11-2011)*
- iii) *FIR No.169 dated 06.06.2009, u/s 307, 398, 420, 467, 471 IPC and Section 25 of Arms Act, P.S. Sadar, District Kurukshetra, Haryana.(PO dated 02-10-2014)*
- iv) *FIR No.31 dated 29.01.2009, u/s 307, 353, 186, 224, 225, 34 IPC, P.S. City Barnala. (convicted dt. 24-11-12)*
- v) *FIR No.48 dated 22.07.2006, u/s 307, 34 IPC and Section 25 of Arms Act, P.S. Division No.3, Ludhiana. (To court dated 19-10-2006 convicted dt 2012)*
- vi) *FIR No.235 dated 27.05.2009, u/s 395, 397, 451, 365, 368, 342, 34 IPC, P.S. Sector 32, Chandigarh. (No clue)*
- vii) *FIR No.180 dated 25.04.2009, u/s 365, 394, 395, 120-B IPC and 25 of Arms Act, P.S. Sector 5, Panchkula (Haryana).(Under trial dated 08-09-2009)*
- viii) *FIR No.29/2014, u/s 365, 392, 336, 223, 224 IPC and 25 of Arms Act, P.S. Mour, District Bathinda. (under investigation)*
- ix) *FIR No.44/2014, u/s 365, 382, 411 IPC, P.S. Sadar, Khanna. (To court dated 09-06-2014 under trial)*

- x) *FIR No.39 dated 20.04.2009, u/s 382, 34 IPC, P.S. Division No.7, Jalandhar. (To court dated 22-09-2012)*
- xi) *FIR No.142 dated 08.04.2009, u/s 392 IPC and 25 of Arms Act, P.S. Division No.6, Jalandhar. (Acquitted dt 23-05-2016)*
- xii) *FIR No.68 dated 23.04.2009, u/s 382, 34 IPC, P.S. Dhariwal, District Gurdaspur. (Convicted dated 25-02-2012 two year undergone)*
- xiii) *FIR No.63 dated 21.04.2003, u/s 379, 411 IPC, P.S. Division No.3, Ludhiana.(convicted 17-10-2007)*
- xiv) *FIR No.88 dated 23.04.2015, u/s 52-A of Prisons Act, P.S. City, Sangrur.(To court dated 04-05-2016 under trial)*
- xv) *FIR No.142 dated 30.05.2015, u/s 353, 186 IPC and Section 52-A of Prisons Act, P.S. City, Sangrur. (To court dated 09-09-2015 under trial)*
- xvi) *FIR No.131 dated 29.07.2011, u/s 325, 34 IPC, P.S. Kotwali, Nabha, District Patiala.(Convicted six month dated 15-03-2012)*
- xvii) *FIR No.150 dated 27.08.2011, u/s 323, 341, 506, 34 IPC, P.S. Kotwali, Nabha, district Patiala.(Convicted 5 ½ month dated 15-05-2012)”*

Narrating the aforesaid information on instructions from SI Jaspal Singh, learned State counsel has submitted that the petitioner is a ‘hardcore criminal’ and in case, he is released on parole there is very serious apprehension that he may abscond. The nature of cases registered against the petitioner are serious in nature as he is involved in numerous cases including highway robberies. He has submitted that earlier also on two different occasions, petitioner remain absconded from the police custody i.e. during trial from 29.01.2009 to 11.06.2009 and after conviction from 10.03.2014 to

05.04.2014. On 10.03.2014 when he was being taken from Bathinda to Patiala on a production warrant in police van, the vehicle was intercepted by the gang having arms and ammunitions and the petitioner managed to run away from the police custody. He also submits that under the Punjab Good Conduct Prisoners (Temporary Release), Act, 1962 there is no provision for temporary release of convicts on the ground of their marriage. He has strongly objected the grant of parole to the petitioner.

Heard, learned counsel for the parties.

Section 3(1)(b) and (d) of the Punjab Good Conduct Prisoners (Temporary Release), Act, 1962 reads as under:-

“3. Temporary release of prisoners on certain grounds.-

- (1) xx xx xx
- (b) the marriage of the prisoner’s son or daughter is to be celebrated; or
- xx xx xx
- (d) it is desirable so to do for any other sufficient cause.”

The case of the petitioner for the aforesaid relief was considered by the Superintendent, Central Jail, Bathinda and vide order dated 03.10.2016 (Annexure P-6), the same was declined. There is no provision in the Act for release on parole of convict for his/her own marriage. The list of cases so produced herein above and his conduct when he had run away from the police custody does not warrant his release on parole for his marriage.

Taking into consideration the fact that petitioner being an accused in large number of cases and coupled with the fact that earlier also at two different occasions, he managed to escape from the police custody and the strong opposition shown by the State, this Court finds that the

petitioner does not deserve the relief of grant of parole.

Accordingly, the present petition stands dismissed.

(HARI PAL VERMA)
JUDGE

26.10.2016
sanjeev

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No