

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl.WP No. 1369 of 2016
DECIDED ON : 25.10.2016

Deepak Dhankar

...Petitioner

versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE S. S. SARON
HON'BLE MS. JUSTICE LISA GILL

Present : Mr. S. K. Tandon, Advocate,
for the petitioner.

Mr. R.K. Makkad, DAG, Haryana.

S. S. SARON, J.

Learned counsel for the State has filed reply by way of affidavit of Sh. Rattan Singh, Superintendent, District Jail, Yamuna Nagar. The affidavit is taken on record.

The petition under Articles 226/227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure and Section 3 (1) (a) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, ('the Act' - for short), has been filed by the petitioner seeking two weeks parole so as to enable him to attend the last rites and religious ceremonies fixed for today i.e 25.10.2016 for the peace of his father who died on 04.09.2016.

The petitioner has been convicted by the learned Additional Sessions Judge, Ambala on 08.07.2014 in case FIR No.89 dated 29.04.2010 registered at Police Station Mullana,

District Ambala for the offences under Sections 302/148/149/34 and 120-B of the Indian Penal Code ('IPC' - for short). He was sentenced to undergo life imprisonment; besides, pay a fine of Rs.5000/- and in default thereof, undergo simple imprisonment for a period of six months for the offence punishable under Section 302/149 IPC. He was also sentenced to undergo rigorous imprisonment for two years for the offence punishable under Section 148 IPC. The sentences were ordered to run concurrently. The petitioner has filed CRA No.D-489-DB of 2015 in this Court against his conviction and sentence which is pending. The petitioner at present is undergoing his life imprisonment. He is also facing trial in two other cases; i.e. FIR No. 230 of 2012 registered at Police Station Baldev Nagar for the offence under Sections 323 IPC. He is on bail in the said case. The other is FIR No.31 dated 3.4.2014 registered at Police Station Hathur for the offences under Sections 307/395/425/427/34/120-B IPC. In the said case also he is on bail.

During the incarceration of the petitioner, his father died on 04.09.2016 at Max Devki Devi Heart and Vascular Institute, Delhi. The petitioner, being the eldest son of his father, it is submitted, has to perform the ceremony of Pind Daan and last rites etc. The petitioner earlier filed a writ petition in this Court, which was dismissed as withdrawn, so as to enable him to approach the Superintendent Jail for his temporary release in terms of the Act. The petitioner moved an application before the

Jail Superintendent, Yamuna Nagar for his temporary release on parole. The said application was, however, declined for the reason that the petitioner had already availed one week emergency parole for the treatment of his father. Now it is submitted that the last rites are to be performed.

We have given our thoughtful consideration to the matter.

The father of petitioner had died on 04.09.2016. Before his demise, the petitioner had sought temporary release on parole for getting his father treated. He was released on parole on 05.09.2015 and he remained on parole till 13.09.2016, i.e after the demise of his father. Therefore, whatever last rites were to be performed, had already been performed by the petitioner. Now it is submitted that Pind Daan ceremony has to be performed which is fixed for today i.e 25.10.2016. No purpose would be served, at this stage, in case the petitioner is ordered to be released on temporary basis for today. Besides, an application for grant of three weeks furlough has already been submitted in the office of Superintendent Jail, District Jail, Yamuna Nagar (respondent No.3). The same is likely to mature for release of the petitioner on furlough in the near future.

In the circumstances, no ground is made out at this stage for passing an order for release of the petitioner on parole as he has already availed parole w.e.f 05.09.2016 to 13.09.2016, which was the period immediately after the demise of his father.

Besides, his case for temporary release on furlough has been initiated.

In the circumstances, there is no merit in the present petition and the same is accordingly dismissed. However, the competent authority shall consider the release of petitioner on furlough as expeditiously as possible.

(S. S. SARON)
JUDGE

(LISA GILL)
JUDGE

OCTOBER 25, 2016
shalini/amit

Note:

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| 1. Whether the order is speaking/reasoned: | Yes |
| 2. Whether the order is reportable : | No |