

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

Crl. Writ Petition 264 of 2016
Date of Decision : March 15, 2016

Manoj Kumar

.....Petitioner

VERSUS

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present : Mr. Randeep S. Dhull, Advocate
for the petitioner.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

T.P.S. MANN, J.

The petitioner has filed the present petition under Articles 226/227 of the Constitution of India read with Section 3(1)(d) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 and Rule 8(2) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 for issuance of a writ in the nature of certiorari for quashing of order dated 21.1.2016 passed by the Superintendent, District Jail, Yamuna Nagar whereby his request for emergency parole stands declined.

The petitioner stands convicted and sentenced to undergo life imprisonment vide judgment and order dated 14/16.10.2015 passed by learned Additional Sessions Judge, Yamuna Nagar in FIR No. 120 dated 18.10.2011 under Sections 302/120-B/34/201/176/202 IPC and Section 25 of the Arms Act registered at Police Station Sadar, Jagadhri. Aggrieved of the

same, he has filed Criminal Appeal D-1590-DB of 2015 which stands admitted for final hearing.

According to the petitioner, his wife is in the family way and expected date of delivery is 27.3.2016. She is being regularly examined at General Hospital, Jagadhri as well as S.P. Infertility and Surgical Centre Private Ltd., Jagadhri. In order to ensure that his wife keeps on receiving necessary medical attention, the petitioner submitted an application to the Jail Superintendent for emergency parole but the said application has been dismissed vide order dated 21.1.2016 (Annexure P-1) on the ground that the petitioner has not completed one year of his imprisonment after conviction and also not earned his first annual good conduct remission.

Upon notice, reply has been filed by the respondents wherein it is stated that the petitioner has undergone four months and twenty two days of his imprisonment after his conviction and also not earned his first annual good conduct remission. Therefore, he is ineligible to be granted the concession of parole. However, it is not denied that the wife of the petitioner is in the family way and the expected date of delivery is 27.3.2016.

Having heard learned counsel for the parties, we find that in terms of Section 3(1)(d) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, a prisoner is entitled for parole in case it is desirable to do so for any sufficient cause.

However, Rule 4(1) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007, a prisoner is required to complete one year sentence after conviction and also earn his first annual good conduct remission before becoming eligible for temporary release. This restriction by way of Rule 4 cannot supersede substantive provisions of the Haryana Good Conduct (Temporary Release) Act, 1988 wherein no such restriction had been imposed. Reliance in this regard can be placed upon the judgment of this Court in **Deepak Vs. State of Haryana and another**, 2014 (4) R.C.R. (Criminal) 531.

Admittedly, the wife of the petitioner is pregnant and her expected date of delivery is 27.3.2016 and, therefore, there was no reason for the authorities to decline his prayer for release on parole.

In view of the above, the petition is allowed and the petitioner is ordered to be released on parole for a period of two weeks from the date of his actual release subject to his furnishing appropriate bonds to the satisfaction of the District Magistrate, Yamuna Nagar.

**(T.P.S. MANN)
JUDGE**

March 15, 2016
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**(RAMENDRA JAIN)
JUDGE**