

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

Criminal Writ Petition No.431 of 2016

Date of Decision: 07.04.2016

Dharambir Malik

....Petitioner(s)

Versus

State of Haryana and others

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Harikesh Singh, Advocate for the petitioner(s)

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J. (ORAL)

Prayer in the instant petition, filed under Article 226 of the Constitution of India read with Section 3(1) (b) of Haryana Good Conduct Prisoners (Temporary Release), Act 1988 (for brevity "the Act"), is for grant of parole of 04 weeks to the petitioner, in order to attend the Hindu Rite (Bhat) in the marriage of *Basant*, who is real nephew (*Bhanja*) of the petitioner. The said marriage is to be solemnized on 15.04.2016.

Learned counsel for the petitioner contends that the prayer for grant of parole was rejected by respondent No.3 i.e. Superintendent District Jail, Bhiwani on 29.03.2016 on the premise that in view of Rule 4(1) of the *Haryana Good Conduct Prisoners*

(*Temporary Release*) Rules, 2007 (for short “2007 Rules”), the petitioner has not completed one year of sentence after his conviction and has not earned his first annual good conduct remission under the Act.

Learned counsel for the State though does not dispute the factum of the marriage of Basant, who is real nephew (*Bhanja*) of the petitioner, however, submits that in view of Rule 4(1) of 2007 Rules, petitioner is not entitled to be released on parole.

Learned counsel for the petitioner relies upon a judgment passed by this Court in Crl. Writ Petition No.1280 of 2015 titled as “**Sunil @ Sonu Vs. State of Haryana and another**”, decided on 11.09.2015, wherein, this Court while taking into consideration the provisions of Section 3 of the Act, ordered for temporary release of prisoner in that case on certain grounds. Section 3(1) (b) of the Act reads as under:-

“Temporary release of prisoners on certain grounds:

(1) The State Government may, in consultation with the District Magistrate or any other officer appointed in this behalf, by notification in the Official Gazette and subject to such conditions and in such manner as may be prescribed, release, temporarily for a period specified in sub-section (2), any prisoner, if the State Government is satisfied that-

(a) XXXX

(b) the marriage of prisoner himself, his son, daughter, grandson, grand-daughter, brother, sister, sister's son or daughter is to be celebrated; or

(c) XXXX

(d) XXXX''

A perusal of the above Section 3 (1) (b) shows that a prisoner may be released by the Court if it is satisfied that the marriage of prisoner himself, his son, daughter, grandson, grand daughter, brother, sister, sister's son or daughter is to be celebrated. In the present case, marriage of *Basant*, who is nephew of the petitioner, is to be solemnized on 15.04.2016. The petitioner, however, is not being released on parole on the ground that he has not completed one year of imprisonment after conviction and has not earned his first annual good conduct remission under the Act, which is the requirement of Rule 4 of the 2007 Rules.

Taking into consideration the judgment passed by this Court in *Sunil @ Sonu's case (supra)*, present petition is allowed and impugned order dated 29.03.2016 (Annexure P-4), is set aside and the petitioner on his furnishing personal bond and surety to the satisfaction of learned District Magistrate, Bhiwani shall be temporarily released on parole for a period of two weeks, which shall be counted from the date of his release. The learned District Magistrate shall specify the date on which the petitioner is to surrender on the expiry of two weeks parole.

07.04.2016
'Anjal'

(HARI PAL VERMA)
JUDGE