

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRWP No.830 of 2016

DATE OF DECISION: June 16,2016

Convict Gurdeep Singh and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Rajwant Singh Chahal, Advocate, for the  
petitioners.

Mr.Arun Beniwal, DAG, Haryana.

TEJINDER SINGH DHINDSA, J.

The present petition has been filed seeking directions to the respondents to grant emergency parole for a period of 14 days to the petitioners herein to enable them to attend the final rites/bhog ceremonies of their father, namely, Khajan Singh, who is stated to have expired on 5.6.2016.

On the last date of hearing, i.e. 13.6.2016, learned State counsel had been directed to verify the factual position with regard to demise of the father of the petitioners as also with regard to the date on which bhog ceremony has been fixed.

In response to the order dated 13.6.2016, a short reply by way of affidavit of the Superintendent of Jail, Central Jail-I, Hisar has been filed along with the police verification report Annexure R.1. The same is taken on

record and a complete copy of the reply has been furnished to the counsel for the petitioners.

Perusal of the reply filed in the Court would reveal that the SHO, Police Station, Sadar Fatehabad has duly verified the factual position as regards the demise of Khajan Singh i.e. father of the present petitioners, on 5.6.2016 and the last prayer/bhog ceremony, having been fixed for 21.6.2016.

Placed on record and appended as Annexure P1 is an order dated 10.6.2016 passed by the Superintendent of Jail, Central Jail-I, Hisar in terms of which the prayer of the petitioners seeking the emergency parole has been declined on the ground that the petitioners are convicts and are undergoing life imprisonment in case FIR No.404 dated 14.8.2013 under Sections 302,201,34, Police Station, Sadar Fatehabad having been convicted by the learned Additional Sessions Judge, Fatehabad on 23.5.2016. The prayer for emergency parole has been declined on the ground that under Rule 4(i) of the Haryana Good Conduct (Temporary Release) Rules, 2007, a prisoner is entitled to apply for parole only after he has completed one year of imprisonment after conviction and has earned his first annual good conduct remission under the Act.

In the considered view of this Court, the basis that forms the rejection order dated 10.6.2016 at Annexure P.1 cannot sustain.

Section 3 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 reads in the following terms:

*"3. 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) a member of the prisoner's family had died or is seriously ill or the prisoner himself is seriously ill; or*

*(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) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land or his father's undivided land actually in possession of the prisoner; or*

*(d) it is desirable to do so for any other sufficient cause*

*(2) The period for which a prisoner may be released shall be determined by the State Government so as not to exceed-*

*(a) Where the prisoner is to be released on the grounds specified in clause (a) of sub-section (1), three weeks;*

*(b) Where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1), four weeks; and*

*(c) where the prisoner is to be released on the grounds specified in clause (c) of sub-section (1), six weeks:*

*Provided that the temporary release under clause (c) can be availed more than one during the year, which shall not, however, cumulatively exceed six weeks.*

*(3) The period of release under this section shall not count towards the total period of sentence of a prisoner.*

*(4) The State Government may, by notification, authorise any officer to exercise its powers under this section in respect of all or any other ground specified there under."*

The restriction of one year imprisonment after conviction being eligible for temporary release has been imposed by way of Rule 4(i) of the Haryana Good Conduct (Temporary Release) Rules, 2007. However, there is no such restriction in the Act. Clearly the Rules cannot supersede the provision of the Act. Such matter has been examined even by a Division Bench of this Court in a recent judgment dated 5.9.2014 rendered in **CRWP No.1293 of 2014 titled as Rakesh v. State of Haryana & Others.**

Following the dictum laid down by this Court in the case of **Rakesh v. State of Haryana and others (supra)**, the impugned order dated 10.6.2016 cannot survive and the same is set aside.

The factual position with regard to the death of the father of the petitioners on 5.6.2016 as also the bhog ceremony being slated for 21.6.2016, having already been verified and the police verification report Annexure R.1 along with the reply, having been placed on record, the prayer made in the present petition is allowed.

Petitioners are directed to be released on emergency parole for a period of seven days commencing with effect from 17.6.2016. The petitioners would surrender on 24.6.2016.

The petition is disposed of in the aforesaid terms.

June 16,2016  
KD

(Tejinder Singh Dhindsa)  
Judge