

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

203

CRWP-976-2016

Date of Decision : August 10, 2016

ASHWANI KUMAR

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANR

.....RESPONDENTS

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

Present: Mr.Rajpreet Singh Brar, Advocate for the petitioner.

Mrs.Ritu Punj, Addl.A.G., Punjab.

S.S. SARON, J.

Learned counsel for the State has filed reply to the petition by way of affidavit of Sh. Hardeep Singh, PPS, Superintendent District Jail, Sangrur on behalf of respondent No.1. The same is taken on record.

Heard, learned counsel for the parties.

The petitioner has been convicted by the learned Sessions Judge, Moga on 29.7.2010 in case FIR No.12 dated 14.2.2008 registered at Police Station Nihal Singh Wala for the commission of offences punishable under Sections 302, 201, 120-B, 148, 149 Indian Penal Code ('IPC' – for short); besides, Section 25 and 27 of the Arms Act. The petitioner while undergoing his imprisonment has been released for 6 weeks parole to look after his ailing father. The parole has since expired on 27.7.2016.

The present petition has been filed for extending the parole for four weeks, w.e.f. 27.7.2016 i.e. the date on which the petitioner was to surrender.

It is submitted that the father of the petitioner is suffering from

Squamous Cell Carcinoma of Larynx, his condition is stated to be very serious. He is getting treatment from Fortis Hospital, Mohali. The doctor has advised weekly Chemotherapy. There is no other able member in the family of the petitioner to take care of him.

Notice of motion was issued on 25.7.2016 for today and till today the parole already granted to the petitioner had been extended and the bail bonds and surety furnished by him it was ordered shall remain operative.

In the reply that has been filed, the serious condition of the father of the petitioner is accepted. Report of SHO Police Station Pojewal dated 5.8.2016 (Annexure R-1) is attached in this regard. It is submitted that the present petition may be considered accordingly.

Section 3 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 ('Act' - for short), provides for temporary release of prisoners on certain grounds which are as follows:-

- (a) a member of the prisoner's family has died or is seriously ill; or
- (b) the marriage of the prisoner'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 and no friend of the prisoner or a member of the prisoner's family is prepared to help him in this behalf in his absence; or
- (d) it is desirable so to do 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 ground specified in clause (a) of sub-section (1), two 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 ground specified in clause © of sub-section (1), six weeks.

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

(4) The State Government may by notification authorise any officer to exercise its power under this section in respect of all or any of the grounds specified therein.

In terms of clause (a) of Section 3 (1) of the Act a prisoner is entitled for temporary release on parole if a member of the family of the prisoner has died or is seriously ill. However, the period for such a release is to be two weeks in terms of Section 3 (2) (a) of the Act. Never-the less Section (2-A) of the Act provides that notwithstanding anything contained in Sub-section (2) where a prisoner undergoing a sentence of life imprisonment, is to be released on the ground specified under clause (d) of sub Section (1) i.e. it is desirable to do for any sufficient cause, he may be released for a period of six months or less in parts, during the five years. Though the member of a prisoner's family being ill is a ground for attending on him, however, in the present case there is no other member in the family to look after the ailing father of the petitioner as is mentioned in

the report dated 5.8.2016 (Annexure R-1) of SHO, Police Station Pojewal. Therefore, this would be a circumstance for desirability of release of the petitioner on parole for other sufficient cause in which case he would be entitled for release for a period of six months. The petitioner has prayed for four weeks parole from 27.7.2016.

Therefore, in the facts and circumstances, it would be just and expedient to allow him to remain on parole on the same terms and conditions and making the bail bonds and surety to remain operative for a period of four weeks from 27.7.2016 till 26.8.2016.

Accordingly the writ petition is disposed of by extending the parole period of the petitioner till 26.8.2016. The bail bonds and surety already furnished by him shall remain operative till he surrenders in jail.

(S.S. SARON)
JUDGE

10.08.2016
TSG

(LISA GILL)
JUDGE

Whether speaking/reasoned? Yes/No

Whether Reportable? Yes/No