

In the High Court of Punjab and Haryana at Chandigarh.

Criminal Writ Petition No.1108 of 2017

Date of Decision : 28th September, 2017

Narender Singh

.....Petitioner

Versus

State of Haryana & others

.....Respondents

CORAM: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurvinder Singh Gill

Present : Mr. Hoshiar Singh Jaswal, Advocate.
Counsel for the Petitioner.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Gurvinder Singh Gill, J.

1. The petitioner along with other co-accused was involved in a case bearing FIR No. 290 dated 14.10.2008 for commission of offences under sections 365, 302, 201, 411 read with section 34 of IPC and for offence under section 25 of Arms Act, registered at Police Station, Ambala, District Ambala. The learned Additional Sessions Judge, Ambala convicted and sentenced the petitioner to undergo rigorous imprisonment for life vide judgement dated 11.12.2010. The petitioner is presently undergoing imprisonment in Central Jail Ambala though appeal challenging his conviction is pending in this Court.
2. The petitioner's mother namely Smt. Jaswant Kaur applied for temporary

release of petitioner on parole for 4 weeks in terms of Section 3(1)(a) of Haryana Good Conduct Prisoner's (Temporary Release) Act, 1988 on the ground that she is suffering from various ailments and is to be operated upon for removing stone from gallbladder. However, the Superintendent, Central Jail, Ambala did not initiate the case for release of the petitioner on parole and vide letter dated 14.9.2017(Annexure P-4) informed the petitioner's mother that in terms of Section 3(1)(a) of Haryana Good Conduct Prisoner's (Temporary Release) Act, 1988, a convict is entitled to be released on parole if a member of prisoner's family had died or is seriously ill or the prisoner himself is seriously ill. It was thus informed that the petitioner is not entitled to parole.

3. Aggrieved by order dated 14.9.2017, the petitioner has filed the present petition seeking parole. Notice of motion was issued to State which has filed its reply opposing the petition.
4. We have heard the learned counsel for petitioner as well as learned counsel representing the State and have given thoughtful consideration to the matter. A convict undergoing imprisonment is entitled to be released on parole in terms of Section 3 of Haryana Good Conduct Prisoner's (Temporary Release) Act, 1988 which reads as under :

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 once 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 thereunder.

5. It is not disputed that petitioner's mother Smt. Jaswant Kaur is ailing and is to be operated upon for removal of stones in her abdomen. In fact, in the

Police Verification Report annexed with the reply filed by the State, the SHO has endorsed the fact that the mother of petitioner who is aged about 72 years remains ill and is undergoing treatment in Bhatiya Hospital, Ambala city and is to undergo surgery for removal of stones in her abdomen. It is further reported therein that the petitioner had availed parole 9 times. It is not the case that the petitioner, on earlier occasions, had ever misused the concession of parole or had overstayed when released on parole. Though it is reported that petitioner has two brothers but in the given circumstances when there is nothing that the petitioner ever misused the concession of parole earlier and admittedly aged mother of the petitioner is to undergo surgery, in our opinion the petitioner deserves to be released on parole for 4 weeks.

6. The petition is accordingly accepted and the impugned order is set aside. The petitioner is ordered to be released on parole for 4 weeks, to be counted from the date of his release, on his furnishing personal bond and surety bond to the satisfaction of the District Magistrate, Ambala/competent authority. The Superintendent, Central Jail, Ambala, shall specify the date on which the petitioner is to surrender in jail after availing 4 weeks parole.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

28th September, 2017
kamal

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No