

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

**CRWP No. 211 of 2017 (O&M)
Date of decision: 23.02.2017.**

Sukho @ Manjeet Kaur

... Petitioner.

Versus

State of Haryana and others

... Respondents.

**CORAM: HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MRS. JUSTICE SNEH PRASHAR**

Present: Mr. Fariad Singh Virk, Advocate for the petitioner.

Mr. R.K. Makkad, Deputy Advocate General, Haryana.

S.S. SARON, J.

As per office report, learned counsel for the petitioner has neither filed process fee nor come to collect the 'dasti' notice.

Learned counsel for the petitioner submits that the case may be passed over and he will submit the receipt of process fee. The case was accordingly passed over.

After verifying, learned counsel for the petitioner has submitted that in fact the process fee has not been filed but a copy was given to the counsel opposite. A copy of the same has been received by learned State counsel.

A reply by way of an affidavit of Sh. Rattan Singh, Superintendent, District Jail, Yamuna Nagar has been filed on behalf of the respondents. The same is taken on record.

Heard learned counsel for the parties.

The present petition has been filed by the petitioner under Article 226 of the Constitution of India for granting her two weeks' parole from 25.02.2017 to 10.03.2017 under Section 3 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 ('Act' - for short) on the ground that she has to attend the last rites and 'Bhog' ceremony of her mother-in-law, namely, Sawaran Kaur wife of S. Banta Singh, which is to be performed on 27.02.2017.

The petitioner has in case FIR No.64 dated 07.07.2011 registered at Police Station Ismailabad, District Kurukshetra for the offence under Section 302 read with Section 34 IPC been convicted and sentenced by the learned Sessions Judge, Kurukshetra vide judgment and order dated 24.07.2012 to life imprisonment; besides, pay a fine of Rs.1000/- and in default of payment thereof, undergo further rigorous imprisonment for a period of three months for the offence under Section 302 read with Section 34 IPC. She has also been sentenced to undergo rigorous imprisonment for two years; besides, pay a fine of Rs.500/- and in default of payment thereof, undergo further rigorous imprisonment for a period of two months for the offence under Section 452 read with Section 34 IPC. The petitioner has filed a criminal appeal, i.e. CRA-D-732-DB of 2012, which is pending in this Court.

Mother-in-law of the petitioner is stated to have died on 10.02.2017 and the 'Bhog' ceremony is to be performed on 27.02.2017. The card (Annexure P-1) in respect of the 'Bhog' ceremony has been placed on record. The Sarpanch and Lambardar of the village of the petitioner have also certified that Sawaran Kaur wife of S. Banta Singh died on 10.02.2017.

A copy of the certificate dated 13.02.2017 (Annexure P-2) has been placed on record.

It is stated that the petitioner has been released on many occasions after furnishing surety bonds for six weeks and she has never misused the concession of parole. She has also approached the Superintendent of District Jail, Yamuna Nagar and explained the reason for grant of parole. However, the Superintendent, District Jail, Yamuna Nagar informed the petitioner orally that a case be filed before this Court, therefore, the petitioner has filed the present case. On the expiry of the period of two weeks from the grant of parole, it is stated by her that she shall surrender before the Superintendent of Jail. According to the petitioner, she is entitled for parole for two weeks on account of the death of her mother-in-law.

In terms of the reply that has been filed, it is stated that the petitioner was admitted in the District Jail, Yamuna Nagar on 28.05.2016 after being transferred from District Jail, Karnal by the order of the Director General of Prisons, Haryana, Panchkula. It is stated that the petitioner never submitted any application/document in the office of the Superintendent, District Jail, Yamuna Nagar about the death of her mother-in-law and neither did she approach for grant of emergency parole to attend the 'Bhog' ceremony to be performed on 27.02.2017. She has rather approached the High Court directly.

It is also stated that there is no provision under the Act for releasing prisoners on parole/furlough on the death of the mother-in-law of the prisoner. In terms of Section 3 (1) (a) of the Act, temporary release can

be granted in case a member of the prisoner's family has died or seriously ill or the prisoner himself/herself is seriously ill. Further, as per Section 2 (b) of the Act, "member of prisoner's family" means the husband, wife, son, daughter, father, mother, brother or sister of the prisoners. Therefore, according to the respondents, the mother-in-law does not fall within the definition of family of "members of prisoner's family".

We have given our thoughtful consideration to the matter and have gone through the records with their assistance.

The petitioner has been convicted by the learned Sessions Judge, Kurukshetra on 24.07.2012 in case FIR No.64 dated 07.07.2011 registered at Police Station Ismailabad for the offence under Sections 302 and 452 read with Section 34 IPC. He has been sentenced to undergo rigorous imprisonment for life; besides, pay a fine of Rs.1500/- and in default of payment thereof, undergo further rigorous imprisonment for five months for the offence under Section 302 read with Section 34 IPC. She has also been sentenced to undergo rigorous imprisonment for two years; besides, pay a fine of Rs.500/- and in default of payment thereof, undergo further rigorous imprisonment for two months for the offence under Section 452 read with Section 34 IPC. At present, the petitioner is undergoing her life imprisonment. The criminal appeal i.e. CRA-D-732-DB of 2012 filed by the petitioner is pending in this Court.

The mother-in-law of the petitioner has died on 10.02.2017 and her 'Bhog' ceremony is to be performed on 27.02.2017. The petitioner has not approached the Jail Authorities for her temporary release on parole. According to the petitioner, she had orally made a request to the

Superintendent, District Jail, Yamuna Nagar, however, he stated that a case be filed before this Court. However, in terms of the reply that has been filed, it is stated by Sh. Rattan Singh, Superintendent, District Jail, Yamuna Nagar, by way of an affidavit, that the petitioner has never submitted any application/document in the office about the death of her mother-in-law and neither approached for grant of emergency parole to attend the 'bhog' ceremony to be performed on 27.02.2017.

In the circumstances, it would be just and expedient if the petitioner approaches the Superintendent, District Jail, Yamuna Nagar for emergency release on parole. In case, the petitioner approaches for temporary release on parole, the Superintendent, District Jail, shall consider the same and also consider if the petitioner can be taken in custody for the said purpose. The case of the petitioner admittedly does not fall within the parameters of Section 3(1) (a) of the Act, however, her case can be considered in terms of Section 3 (1) (d) of the Act which provides for temporary release on the satisfaction of the competent authority if it is desirable to do so for any other sufficient cause.

The expression 'sufficient cause' has been considered amongst the reasons as mentioned in Rule 8 of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007. The reasons mentioned therein are not exhaustive, however, mother-in-law of a lady prisoner may be considered as one of the 'sufficient cause'.

The writ petition is accordingly disposed of with the direction that in case the petitioner approaches the competent authority for her temporary release on parole to attend the 'Bhog' ceremony of her mother-in-

law, the same shall be considered expeditiously and preferably before the 'Bhog' ceremony; besides in case the parole is to be declined, the competent authority may also consider taking the petitioner in custody for the 'Bhog' ceremony of her mother-in-law.

(S.S. SARON)
JUDGE

(SNEH PRASHAR)
JUDGE

February 23, 2017
ps-I

<u>Note:</u>	1.	Whether reasoned/speaking	:	Yes/No
	2.	Whether reportable	:	Yes/No