

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

**CRWP No. 340 of 2017 (O&M)**

**Date of decision: 31.03.2017.**

Aman alias Kala

..... Petitioner.

Versus

State of Haryana and others

..... Respondents.

**CORAM: HON'BLE MR. JUSTICE S.S. SARON  
HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Mr. Krishan Kumar son of Shri Ram Singh, resident of village Risalu, Police Station Chandni Bagh, District Panipat, for the petitioner.

Mr. S.S. Pannu, DAG, Haryana, for the respondents with ASI Bijender Singh, Police Station Chandni Bagh, District Panipat.

**S.S. SARON, J.**

The criminal writ petition has been filed by Aman alias Kala - petitioner seeking temporary release for two weeks' parole to perform the marriage of his sister, namely, Aarti which is to be solemnized on 02.04.2017.

Notice of motion was issued on 30.03.2017 for today.

ASI Bijender Singh, Police Station Chandni Bagh, District Panipat, has appeared. He has submitted that he got the message late in the night and due to paucity of time, he is unable to file reply. However, the fact regarding marriage of Aarti, sister of the petitioner - Aman alias Kala, was got verified from Naresh Kumar, who is the husband of Sarpanch of the village, namely, Renu Bala. Naresh Kumar informed him that the marriage of Aarti, sister of the petitioner, is indeed fixed for 02.04.2017.

We have given our thoughtful consideration to the matter.

The petitioner has been convicted by the learned Additional Sessions Judge, Panipat, on 20.02.2017, in case FIR No.1287 dated 09.11.2015 registered at Police Station Chandni Bagh, District Panipat, for the offences punishable under Sections 302, 201, 404 and 34 of the Indian Penal Code. The petitioner would not be entitled to parole in view of Rule 4 of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 ('Rules' - for short) which provides for eligibility for release on parole. It is envisaged therein that a prisoner shall be entitled to apply for parole only after he has completed one year of his imprisonment after conviction and has earned his first annual good conduct remission under the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 ('Act' - for short). As already noticed, the petitioner has been convicted on 20.02.2017, therefore, he has not completed one year of imprisonment after conviction and has not earned his first annual good conduct remission under the Act. However, it may be noticed that Section 3 (1) (b) of the Act provides for temporary release of prisoners on the ground that the marriage of the petitioner himself, his son, daughter, grandson, granddaughter, brother, sister, sister's son or daughter is to be celebrated. The petitioner is, therefore, entitled for temporary release on parole in terms of Section 3 (1) (b) of the Act which provides for such release in case the marriage of the petitioner's sister is to be celebrated.

The provisions of the Act are substantive provisions and there is no restriction for completing one year imprisonment under the Act which is sought to be invoked by way of Rules. It is well known that the provisions of the Rules cannot override the substantive provisions of the

Act. Therefore, the petitioner would be entitled for temporary release on parole in terms of Section 3 (1) (b) of the Act, as noticed above.

Section 3 (2) of the Act provides the period for which a prisoner may be released which is to be determined by the State Government so as not to exceed four weeks in case a petitioner is to be released on the grounds specified in Clause (b) of Sub-section (1) of Section 3 of the Act. The petitioner, therefore, is entitled for temporary release for a period of one week to enable him to attend his sister's marriage. The marriage card (Annexure P2) regarding marriage of the sister of the petitioner and a certificate (Annexure P3) from Gram Panchayat, village Risalu, District Panipat, certifying that the petitioner is resident of village Risalu and requesting that the petitioner may be granted parole have been placed on record. The same are credible and convincing.

In the circumstances, the criminal writ petition is allowed and the petitioner on his furnishing personal bond and surety to the satisfaction of the District Magistrate, Panipat/competent authority shall be released on parole for a period of one week to be counted from the date of his release.

In case for any reason, as the petitioner has come at the last moment, bonds are not furnished by 02.04.2017, the order shall become inoperative.

**(S.S. SARON)**  
**JUDGE**

**(DARSHAN SINGH)**  
**JUDGE**

31.03.2017  
Ramesh

**Note:**            1.      Whether reasoned/speaking    :      Yes  
                         2.      Whether reportable                :      Yes