

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

122

CRWP No.413 of 2017

Date of decision: 14.04.2017

Avtar Singh @ Tari

....Petitioner

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Charanpreet Singh, Advocate, for the petitioner.

Mr.Rupam Aggarwal, DAG, Punjab.

G.S. SANDHAWALIA, J. (Oral)

Petitioner seeks release on parole for a period of 4 weeks, to attend the marriage of his bhanji (niece). It has been averred that he has been convicted by the Special Judge, Shaheed Bhagat Singh Nagar on 22.09.2016 and is in custody for a period of 10 years under Sections 22 & 29 of the Narcotic Drugs & Psychotropic Substances Act, 1985. He has been in custody since 2 years 6 months and the marriage of his niece is to solemnized on 16-17.04.2017 and on account of being the maternal uncle, it is necessary that his presence is required as some rites and rituals are to be performed by him. The marriage card is also attached with the petition.

It is the case of the petitioner that an application for release on parole has been moved to the Jail Superintendent but no action has been taken and accordingly, prayer has been made for release on parole.

State, in its reply filed, has submitted that the petitioner has not submitted any application regarding the marriage of his sister's

daughter and that 6 weeks parole case of the petitioner had been initiated by the office on 06.02.2017 to the Deputy Commissioner, Shaheed Bhagat Singh Nagar for grant of parole after police verification, which is still pending.

Reliance has been placed upon Section 3 of the Punjab Good Conduct Prisoner (Temporary Release) Act, 1962 (Punjab Act NO.II of 1962) with Amendment Act, 2015 (Punjab Act No.1 of 2016) (for short, the 'Act'), that emergency parole can only be granted to the prisoners where a member of the prisoner's family has died. As per the custody certificate also, apart from one FIR under the Excise Act, there is no other case pending against the petitioner.

Counsel for the petitioner has relied upon the provisions of Section 3(1)(b) of the Act, to submit that he can be temporarily released for a period specified under Sub-section (2), if it is desirable to do so, for any sufficient cause. Reliance has also been placed upon the Division Bench judgment in **CRWP-2714-2011** titled *Suresh Kumar @ Tidda Vs. State of Punjab & others*, decided on 13.12.2011, to submit that in similar circumstances, on account of marriage of the sister, keeping in view Clause (d) of Section 3(1) of the Act, it had been directed that the case of the petitioner be considered by the concerned authority, in accordance with law. Reliance has also been placed upon another judgment in **Inder Singh Vs. State of Haryana 2000 (3) RCR (Criminal) 693** wherein,

on account of non-decision, this Court released the petitioner for one week, for the marriage of his sister.

Accordingly, keeping in view the above, this Court is of the opinion that sufficient cause, as such, has been shown, to release the petitioner for a period of 10 days, so that he can attend the wedding of his niece and participate in solemnizing the marriage. It is not disputed by the State Counsel also that 6 weeks parole case has been initiated, which is still pending.

In view of the fact that the marriage is round the corner, on 16-17.04.2017, therefore, on account of delay in decision making in the petitioner's case, he would be seriously prejudiced. Accordingly, the present petition is allowed and respondent No.2 is directed to release the petitioner for a period of 10 days, starting from 15.04.2017. The petitioner shall surrender on 24.04.2017 at 10 am, before the said respondent.

Photocopy of this order be supplied to the counsel for the parties, under the signatures of Special Secretary of this Court.

14.04.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*