

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

CRWP No.457 of 2017

Date of Decision: 12.05.2017

Jagwanti Devi

---Petitioner

Versus

State of Haryana and others

----Respondents

**Coram: Hon'ble Mr. Justice Ajay Kumar Mittal
 Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. R.S. Budhwar, Advocate for the petitioner.

Mr. Ashok Muthreja, DAG, Haryana.

Ajay Kumar Mittal, J.

The petitioner wife of Gajraj-convict has approached this Court by filing the present petition under Articles 226/227 of the Constitution of India read with Section 482 of the Cr.P.C. and Section 3(1)(b) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for short 'the Act') praying that her husband Gajraj be released on parole for four weeks as the marriage of her daughter Lata is scheduled for 16.05.2017. It is also prayed that the order dated 05.04.2017 (Annexure P-3) passed by respondent No.2 declining the parole of the husband of the petitioner be set aside.

2. On 25.04.2017, notice of the petition was issued to learned State counsel.

3. In response thereto, detailed written statement of Sh. Vijender, Deputy Superintendent of Prison and status report by way of affidavit of Mohammad Jamal, D.S.P. Rewari have been filed on behalf of the respondent-State wherein the claim of the petitioner for release of her husband on parole has been opposed. However, the marriage of the daughter of Gajraj, fixed for 16.05.2017, has not been denied.

4. A perusal of the reply shows that the primary ground for disputing the claim of convict-Gajraj is that he has not completed one year of his imprisonment after conviction and has not earned his first annual good conduct remission under Section 10(2)(d) of the Act and Rule 4(1) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 (for short 'the Rules').

5. Learned counsel for the petitioner while relying upon the judgment of this Court in ***Deepak Vs. State of Haryana and another 2014 (4) RCR (Criminal) 531*** submitted that Rule 4 (1) of the Rules though prescribes where the convict has not completed one year of imprisonment after conviction is not entitled for parole, but it is not an absolute bar and he can be released on parole under such circumstances as narrated in the present petition. Relevant part of the judgment reads thus:

“5. We have given our thoughtful consideration to the matter. It may be noticed that in terms of Section 3 (1)(a) of the Act, a prisoner is entitled for parole if a member of the prisoner's family has died or is seriously ill or the prisoner himself is seriously ill. The restriction of one year of imprisonment after conviction to be eligible for temporary release has been imposed by way of Rule 4 of the Haryana Good Conduct Prisoners (Temporary Release) Rule 2007 (for short 'the Rules), which was published in the Haryana Government Gazette (Extra) Legislative Supplement Part III dated 18.12.2007. There being no such restriction in the Act, the Rules cannot supersede substantive provision of the Act.”

6. On the second last date of hearing, learned State counsel was directed to apprise this Court regarding the conduct of the convict-

Gajraj. Short reply of Deputy Superintendent, District Prison, Narnaul has been filed stating therein that after conviction, he is working in jail factory and has not committed any jail offence during his confinement. Para 3 of the said reply reads thus:

“3. That it is respectfully submitted that the conduct of Gajraj S/o Bhoop Singh is good in jail as convict as well as under trial prisoner. Convict Gajraj S/o Bhoop Singh was admitted in this prison as under trial on 12.06.15 and he was convicted on 15.07.16. After conviction he is working in jail factory. He has not committed any Jail offence during his confinement in this prison.”

7. In view of the above and after hearing learned counsel for the parties, and also keeping in view the fact that the marriage of the daughter of convict Gajraj is fixed for 16.05.2017, we deem it appropriate to set aside the order dated 05.04.2017 (Annexure P-3) and direct that Gajraj be released on parole for a period of ten days i.e. w.e.f. 12.05.2017 to 22.05.2017 on his furnishing personal bond and surety/security to the satisfaction of District/Illaqha Magistrate, Rewari. The convict-Gajraj shall surrender on 22.05.2017 in jail before 5.00 pm.

8. Accordingly, the petition stands disposed of.

(Ajay Kumar Mittal)
Judge

(Harinder Singh Sidhu)
Judge

12.05.2017
atul

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No