

CRWP-769-2017

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

CRWP-769-2017

Date of Decision: July 28, 2017

Sonu @ Pradeep

...Petitioner

Versus

State of Haryana & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Anoop Singh Sheoran, Advocate
for the petitioner.

Mr. Ashok Singh Chaudhary, Addl. A.G., Haryana.

Mr. Anil Kumar Malik, Advocate
for respondent No.4.

M.M.S. BEDI, J.(ORAL)

The petitioner, having been sentenced on 30.03.2016 by the Sessions Court, Jhajjar, in FIR No.136 dated 25.05.2013, to undergo life imprisonment under Section 302 of the Indian Penal Code and other offences, has filed the present petition seeking temporary release under Section 3 (1) (b) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (hereinafter referred to as '1988 Act') to enable him to solemnize his marriage.

It is claimed in the petition that his marriage is to be solemnized on 30.07.2017, whereas, the date of Lagan ceremony was fixed as 20.07.2017. The petition is accompanied by invitation cards (Annexure P-1 and P-2) got printed by the families of petitioner and respondent No.4.

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The reports have been submitted by the Panchayats of villages Godhari, and Bir Chhuchhakwas, District Jhajjar.

On notice having been issued to the respondents, reply has been filed by the State averring therein that for having been found in possession of mobile phone during search on different occasions, FIRs have been registered against the petitioner under Sections 42/45 of the Jail Act at Police Station Jhajjar. The details of FIR have been mentioned in the reply. It has also been claimed by the State authorities that as per the provisions of Section 2 (2) of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2015 (hereinafter referred to as 'the Amended Act, 2015), a hardcore prisoner who has not been awarded death penalty may be entitled for temporary release or furlough only if he has completed 5 years' imprisonment and has not been awarded any major punishment by the Superintendent of Jail. The petitioner having not completed 5 years' imprisonment after conviction including 2 years' custody during trial, he is not entitled for parole as per Section 2 (2) of the Amended Act, 2015. However, it is admitted that on enquiry having been conducted by the Station House Officer, Police Station Beri, the marriage is actually fixed to be solemnized on 30.07.2017 at village Bir Chhuchhakwas.

It is not out of place to observe here that Bunty, daughter of Shri Sant Lal Khodiyal, alongwith her family members has come present in Court and counsel representing her has submitted that all the necessary arrangements of the marriage have been made and that the girl, who is present in Court, understanding all the proceedings is ready to marry the petitioner.

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We have heard the counsel for the petitioner, State counsel as well as counsel for the girl-respondent No.4, who has intervened to support the case of the petitioner for parole.

After hearing the counsel for the parties, going through the relevant provisions of the 1988 Act and the rules framed under the Haryana Good Conduct Prisoners (Temporary Release) Rules 2007 (hereinafter recorded as '2007 Rules') and keeping in mind the fact that the inmates in the jail do not cease to enjoy the fundamental rights of life and liberty though subject to statutory restrictions. The Legislature in its wisdom has permitted the temporary release of a prisoner on the ground of the marriage of the prisoner himself under Section 3 (1) (b) of the 1988 Act. As per the said provision, the marriage of the prisoner himself, his son, his daughter, his grand-son, his grand-daughter and other relations is a ground for grant of temporary release. The petitioner fulfills the eligibility of having completed one year of his imprisonment after conviction as per Rule 4 of 2007 Rules. As per the custody certificate, the petitioner has been acquitted in FIR No.879 dated 29.08.2015, under Section 42/45 of Jail Act, Police Station Jhajjar, by Judicial Magistrate 1st Class, Jhajjar. However, he is facing trial in a similar case in FIR No.879 dated 29.08.2015, under Section 42/45 of Jail Act, Police Station Jhajjar, in which, during the pendency of the trial, he has been granted the concession of bail.

We have taken into consideration the said circumstance. It is not out of place to mention here that as per Section 5-A, notwithstanding anything contained in Sections 3 and 4, a hardcore prisoner may be allowed to attend marriage of the family members, who are enumerated in Section 3

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(1) (b) of the 1988 Act. On harmonious construction of Section 5-A with Section 3 (1) (b) of the 1988 Act, we are of the opinion that ends of justice would be adequately met, in case the petitioner is allowed to be permitted to perform his marriage ceremony in custody under the armed police escorts for a period of 48 hours. It is ordered that the petitioner will be permitted to perform his marriage in village Bir Chhuchhakwas, District Jhajjar, on 30.07.2017 from 10.00 AM till 9.00 AM on 01.08.2017 in custody.

Jail authorities and police authorities will ensure that the petitioner returns to the jail as per the directions of this Court after marriage ceremony as per the schedule mentioned in Annexure P-2.

It is made clear that this order has been passed in peculiar facts and circumstances of this case without intending to be read as a precedent. Anything observed in this order is not meant for any other proceedings affecting the rights of any party connected with the case.

Disposed of in the aforesaid terms.

A copy of this order be given **dasti** to the counsel for the parties under the signatures of the Court Secretary of this Court.

(M.M.S. BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

July 28, 2017
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No