

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

CRWP-1548-2017

Date of decision:-14.2.2018

Vijay Kumar

...Petitioner

Versus

The State of Haryana and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

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

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

By way of filing the present criminal writ petition under Article 226/227 of the Constitution of India read with Section 3(C) of Prisoner Good Conduct (Release) Act for grant of emergency parole for four months on account of arrangement for the treatment of his wife, namely, Kanta Devi, who had undergone surgery of back-bone has been filed by petitioner Vijay Kumar, who was convicted in a murder case bearing FIR No.344 dated 1.6.2007, Police Station City, Hisar undergoing imprisonment for life, presently lodged in Central Jail, Hisar.

According to the petitioner, his family comprises of his wife and two minor children; that on 10.11.2017, petitioner's wife was admitted in Navjivan Multispecialty Hospital, Hisar; that petitioner had submitted a representation to the Superintendent, Central Jail, Hisar for grant of emergency parole to attend to his wife but it was not decided, then the petitioner filed a CRWP-1442-2017, which was disposed of with a direction to respondents to look into application Annexure P-2 submitted by the petitioner and take appropriate action in accordance with provisions of Haryana Good Conduct Prisoners (Temporary Release), Act 1988 within a period of four weeks on receipt of copy of that order; that now vide dated 14.12.2017, the respondents did not allow the petitioner to avail parole. He further submits that he is ready to furnish bail bonds and surety bonds and undertakes to abide by each and every condition being imposed by this Court while granting him concession of parole.

On notice, respondents appeared and filed reply contesting the petition. *Inter alia*, it is contended that petitioner cannot claim furlough/parole as a matter of right since it is a concession and not a privilege, therefore, petition deserves to be dismissed; that as per Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (hereinafter referred to as *the Act*), the emergency parole can only be granted to the prisoner, who is seriously ill; that the fact regarding the illness of his wife was verified from the doctor of Navjeevan Multispecialty Hospital, Hisar, in terms of which, wife of petitioner/convict was operated on 10.11.2017 and now she is in phase of recovery, in that way she is not seriously ill and is in phase of recovery; that the petitioner is not entitled to grant of

any parole; that he was released on six weeks parole on 17.10.2017 with a direction to surrender at jail gate on 29.11.2017; that he accordingly surrendered at jail gate on due date i.e. 29.11.2017, while his wife was operated on 10.11.2017, he was with his wife at the time of her operation; that he took care of her wife and surrendered at the jail gate after 19 days of operation; that there is no provision to extend the parole of a convict as per the Act. In the end, such respondents prayed for dismissal of the petition.

I have heard learned counsel for the parties besides going through the record.

A perusal of the rules of the Act goes to show that Rule 3 deals with Temporary release of prisoners on certain grounds, one of which when a member of the prisoner's family had died or is seriously ill or the prisoner himself is seriously ill. Now the question arises as to whether case of the petitioner falls within the ambit of this rule. In this case, the State counsel has filed a short reply by Superintendent, Central Jail-I, Hisar and copy of verification report. A perusal of the same goes to show that it is mentioned therein that status of family of petitioner was got verified through SHO, Police Station City, Fatehabad and as per the report wife of the convict/petitioner lives with her mother along with her two children aged 11 and 5 years and no body was there to look after her except her mother and minor children. The verification report in that regard has been enclosed. In that way, case of the petitioner is covered by this sub rule since after being operated upon for the ailment of back-bone, the wife of the petitioner, namely Kanta Devi is being looked after by her

mother and children. The mother is stated to be of old age, whereas children are of tender age.

The impugned order passed by the Superintendent, Central Jail-I, Hisar does not come out to be much convincing. Therefore, the said order is set aside. The petitioner is ordered to be released on parole for three weeks, subject to his furnishing personal and surety bonds to the satisfaction of Superintendent, Central Jail - I, Hisar. The period of three weeks of parole shall begin after the personal and surety bonds furnished by the petitioner are accepted. On expiry of three weeks of parole, the petitioner would surrender at gate of Central Jail - 1, Hisar.

In that way, the petition stands allowed accordingly.

14.2.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No