

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

Sr. No.221

CRWP-172-2018

Date of decision : 15.02.2018

Paramjit Kaur @ Rani

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

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

Mr. Amandeep Singh Gill, Sr. DAG, Punjab.

SUDHIR MITTAL, J. (Oral)

The petitioner seeks four weeks' emergency parole to attend the marriage of her daughter, which is stated to be held on 04.03.2018/05.03.2018.

The petitioner has been convicted under Section 21 of the NDPS Act, 1985 (for short 'Act') and sentenced to undergo RI for ten years. Pursuant to order dated 08.02.2018, reply by way of affidavit of Smt. Damanjit Kaur Walia, Superintendent, Women Jail, Ludhiana has been filed by the learned State counsel in Court today and the same is taken on record. According to this affidavit, the petitioner is a habitual criminal and has been convicted earlier vide order dated 31.01.2017 and sentenced to undergo RI for ten years for offences under the said Act. She is also under trial in another case under the said Act and is also accused of committing a jail offence during the period of her custody. It is further stated that as per law, a convict, who has committed a jail

offence, is not entitled to parole for a period of one year from the date of committing of the offence. However, according to the investigation conducted by the department, the marriage of the daughter of the petitioner is scheduled for 05.03.2018.

Learned counsel for the petitioner contends that the provisions of the Punjab Good Conduct Prisoners' (Temporary Release) Rules, 1963, (hereinafter referred to as the 'Rules'), are directory in nature and even though a person is not covered by the said Rules, parole can be granted by this Court in exercise of powers under Article 226 of the Constitution of India.

On the other hand, learned State counsel relies upon a Division Bench judgment dated 22.01.2018 in '**CRWP-64-2018 (O&M) titled as 'Tarsem Singh Vs. State of Punjab and others'**', to contend that a criminal writ petition is not maintainable, wherein parole is sought.

So far as, the maintainability of criminal writ petition is concerned, objection is purely technical in nature. Both for a criminal writ petition and civil writ petition, the power is derived from the Article 226 of Constitution of India. In my humble opinion, the earlier nomenclature is not concerned, so far as the jurisdiction of the Court is concerned. Further, the Division Bench judgment in **Gurmit Singh** (supra) undoubtedly lays down the law that the provisions of the said Rules are directory in nature and they cannot subscribe the power of this Court under Article 226 of the Constitution of India. However, keeping in view the fact that the petitioner is a habitual criminal and has been convicted in more than one case under the said Act, she does

not deserve the concession of parole, especially when she has committed a jail offence immediately after her confinement in jail after her conviction. Thus, the present petition is without any merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

15.02.2018
Ramandeep Singh
Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No