

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

CWP No.10900 of 2018

Date of Decision: 04.05.2018

Ravinder and another

....Petitioners

Versus

State of Haryana and others

...Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Sunil Saharan, Advocate
for the petitioners.

Mr. Rajesh K. Sheoran, Addl. A.G., Haryana.

DAYA CHAUDHARY, J. (ORAL)

The prayer in the present petition is for issuance of a writ in the nature of *certiorari* for setting aside the impugned order dated 25.04.2018, whereby, claim of petitioner No.2 Rajesh son of Om Parkash for grant of emergency parole has been rejected.

Learned counsel for the petitioners submits that the claim has been rejected only on the ground that period of one year has not expired, whereas, the sentence is only for two/three years and nothing has been said on merits. Learned counsel also submits that the condition of one year cannot be made applicable when the sentence is only for two/three years. He further submits that the presence of the petitioners is necessary to perform last rites on the death of their father, who had expired on 24.04.2018.

In response to notice of motion, reply has been filed by learned counsel for the respondents-State in the Court today and the same is taken on record.

Learned State counsel has not disputed the factum of death of father of the petitioners as mentioned in para No.4 of the reply. Learned State counsel also submits that as per provisions of Section 4(1) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007, the condition is of completion of one year sentence and that rule has not been challenged.

Heard the arguments of learned counsel for the parties and have also perused the impugned order as well as other documents available on the file.

Admittedly, the petitioners are undergoing sentence for a period of two/three years in case FIR No.594 dated 23.07.2010 registered under Sections 420/467/468/471 IPC at Police Station Sadar Hisar. They were convicted by the trial Court vide judgment dated 13.09.2013 and were sentenced to undergo rigorous imprisonment for a period of two/three years. The claim of petitioner No.2 has been rejected only on the ground that they have not completed one year of sentence. It is not a case of the respondents-State that during trial of the case, the petitioners have misused the concession of bail or any other case is pending against them. Only on the ground that the petitioners have not undergone the custody of one year when the sentence is of two/three years, cannot be a condition that they cannot be released on parole. However, it is a case of emergency parole as father of the petitioners has expired and they are to perform certain rituals on 07.05.2018 which are required after the death and being the sons and their presence is required. Moreover, the petitioners are not hardcore criminals.

Keeping in view the facts and circumstances of the case and by

considering that the sentence is only two/three years, the present petition is allowed and the petitioners are directed to be released on parole for a period of one week subject to the satisfaction of the jail authorities. The petitioners are directed to surrender before the jail authorities on expiry of period of one week. However, the period of one week will commence from the date of grant of parole to the petitioners. Even in case, where the convict is hardcore criminal, in such circumstances also, the convict has a right to be released on parole, if other reasons are there.

A copy of this order be given *dasti* under the signatures of Special Secretary attached to this Court.

04.05.2018
gurpreet

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No