

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

CWP No. 22207 of 2018
Date of Decision: 17.09.2018

NIKHIL KUMAR @ NIKKU

... Petitioner

VS.

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. H.S. Jaswal, Advocate,
for the petitioner.

Mr. Sahil Sharma, DAG, Punjab.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner is suffering 10 years sentence and presently lodged in Central Jail, Amritsar, for the offence committed under Sections 22/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985. He has prayed for the issuance of a writ in the nature of *Mandamus* for his temporary release under Section 3 (1) (d) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 (hereinafter referred to as 'the Act') on account of marriage of his sister which is scheduled to be solemnized on 21st and 22nd September 2018 at Bakshi Resorts, G.T. Road, Putlighar, District Amritsar.

After notice was issued, the respondents have filed their reply in which they have not denied about the factum of the marriage of the petitioner's sister but it is averred that the petitioner in the past has been involved in three cases in which though he has been acquitted but in other two cases he has been convicted and sentenced for 5 months and 4 months respectively. It is, thus, submitted that the petitioner do not deserve the concession of parole keeping in view his past record.

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I have heard learned counsel for the parties and perused the record.

The petitioner has applied for Parole under Section 3 (1) (d) of the Act which provides that "*it is desirable to do so for any another sufficient cause.*" There is an explanation also appended with Section 3 (1) (d) of the Act to define the expression of "sufficient cause" which includes:-

- (1) *serious damage to life or property of the member of the family caused by any natural calamity; or*
- (2) *critical condition of any member of the family on account of accident; or*
- (3) *delivery of child by the wife of the prisoner.";*

Although it is provided under Section 3 (1) (b) that the convict can ask for parole on account of marriage of his/her son or daughter but there is no such provision for asking parole to attend the marriage of a prisoner's sister. The term "member" of the prisoner's family is defined under Section 3 (1) (b) which includes the sister as well. The marriage of the sister or brother is an important event in our Society, therefore, the petitioner can be released on parole by considering his case in terms of Section 3 (1) (d) i.e. "other sufficient cause".

The other issue is that as to whether the petitioner deserves to be released on parole in view of his involvement in other criminal cases ?

The Respondents themselves submitted in vide para 2 of the reply that though the petitioner was involved in three cases but he has been acquitted in all three cases, therefore, involvement in the said cases do not have any effect but insofar as his conviction for four and five months in two other cases respectively are concerned, they are not more than 5 months,

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therefore, the petitioner can be granted parole for attending the marriage of his sister.

In view thereof, the present petition is hereby allowed and direction is issued to the District Magistrate, Amritsar to release the petitioner on parole for two weeks after accepting the bail bonds. The District Magistrate is directed to impose conditions, as he deem fit and necessary, for securing the presence of the petitioner in the Jail after completion of the period of parole.

September 17, 2018

Ess Kay

[RAKESH KUMAR JAIN]
JUDGE

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