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

CWP No.22936 of 2018

Date of decision: September 12, 2018

Ashwani Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Randeep S. Dhull, Advocate,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Rakesh Kumar Jain, J. (Oral)

This petition is filed for seeking extension of furlough for another four weeks as the petitioner has to surrender today, i.e. 12.09.2018, after completion of the period of furlough already granted.

In brief, the petitioner is a life convict, lodged in District Jail, Faridabad. He had applied for furlough for three weeks to the Superintendent of Jail, Faridabad for the purpose of meeting his family members and restoring social ties. Since the said application was not decided eitherway, therefore, the petitioner had to approach this Court by way of CWP No.12825 of 2018, which was disposed of on 16.07.2018 by this Court while giving directions to release the petitioner on three weeks furlough in view of Section 4(1) and Section 6 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (hereinafter referred to as the "Act").

However, during the period of furlough, the petitioner had solemnized marriage with a girl, namely, Reena on 04.09.2018. It is

apparently a run away marriage and in this regard, a certificate issued by Shri Balal Ji Jyotishi (Kendra) Mandir, Mata Mansa Devi Market, Sector -4, Panchkula about the performance of the marriage is attached as Annexure P-3.

Since the petitioner has to surrender before the Jail Authorities today, therefore, he has filed this petition for seeking extension of his furlough, as has been granted by this Court, for another four weeks to consummate the marriage.

In reply, the respondents have averred that the petitioner has not come to this Court with clean hands as he had been released on furlough by order of the Court as he wanted to meet his family members and restore social ties. It was nowhere the case of the petitioner that he wanted to be released on furlough for the performance of his own marriage. It is also submitted by the respondents that for the purpose of solemnization of his own marriage by a convict, an application is to be made in terms of Section 3(1)(b) of the Act and not in terms of Section 4(1) of the Act but the petitioner instead applied for furlough without disclosing his intention of getting married. It is also submitted by the respondents that the petitioner cannot be allowed to take advantage of his own wrong for the purpose of extension of furlough. It is further submitted that the petitioner, in any case, is a convict who cannot be allowed to stay out of jail for the purpose of consummation of his marriage, which he had performed without having any permission from the Court.

Counsel for the petitioner has repeatedly submitted that the petitioner had made his intention clear at the time when he had earlier applied for furlough for the purpose of meeting his family members and to restore the social ties and as such, he disclosed his intention of getting married as well.

I have heard learned counsel for the parties and examined the available record with their able assistance.

As per the scheme of the Act, a convict languishing in jail can apply for his temporary release by making an application for his release on parole or furlough. The application filed for parole is to be dealt with under Section 3 of the Act and the application for furlough is to be dealt with under Section 4 of the Act. For the purpose of temporary release of a person on parole, the grounds are provided in Section 3(1)(a) to (d), in which ground mentioned in Section 3(1)(b) is largely in regard to the marriage which says that “*the marriage of prisoner himself, his son, daughter, grandson, granddaughter, brother, sister, sister's son or daughter is to be celebrated*”. Section 3(1)(d) is an omnibus provision which states that it is desirable to do so for any other sufficient cause. “Sufficient Cause” is not defined in the Act but it is defined in Rule 8 of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 (hereinafter referred to as the “Rules”), in which there are four conditions, namely, (i) admission in school/colleges/professional institutions of the dependents of the convict; (ii) medically scheduled delivery of wife of the convict; (iii) house repairs/new construction of house owned by the convict. Parole for house repair shall be granted only once in three years; and (iv) marriage of prisoner's brother's son or daughter to be celebrated in case his brother is not alive.

Though the “sufficient cause” has been defined in the Rules but still counsel for the petitioner has submitted that the petitioner can be granted parole for the purpose of consummation of his marriage which he had performed during the period of furlough, already granted.

This argument of the counsel for the petitioner cannot be accepted because firstly, the petitioner has not applied for furlough for the purpose of getting married as the reason he has given for releasing him on furlough was to meet his family members and to restore the social ties, which may fall within the ambit of Section 3(1)(d) of the Act. If the petitioner had the intention of getting married, he should have applied for parole in terms of Section 3(1)(b) of the Act, which is to be considered by the competent authority or by the Court as the parole/furlough is not a right but discretion to be exercised by the competent authority keeping in view the conduct of the convict in jail. The petitioner has admittedly got married without the consent of the parents of his wife Reena as the marriage has been performed in the presence of some relatives in a Mandir.

Thus, keeping in view of the aforesaid facts and circumstances, the petitioner cannot be allowed further extension of furlough/parole for the purpose of consummation of his marriage and consequently, the present petition is hereby dismissed, being denuded of any merit, though without any order as to costs.

September 12, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned	:	Yes/No
Whether reportable	:	Yes/No