

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

CWP No. 4263 of 2018

Date of Decision: 06.03.2018

ARSHDEEP SINGH @ ARSH

.....Petitioner

V/S.

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Mr. Tejinder Pal Singh, Advocate,
for the petitioner.

Mr. Ayush Sarna, AAG, Punjab.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner has prayed for the issuance of a writ in the nature of certiorari for setting aside the impugned order dated 09.02.2018 passed by the Superintendent of District Jail, Sangrur by which the application of the petitioner for seeking parole to attend the marriage of his sister has been declined on the ground that the petitioner can apply for parole only after four months of his conviction.

In brief, the petitioner was tried by the Court of Additional Sessions Judge, Sangrur in a case registered vide FIR No. 269 dated 19.09.2015 under Sections 323, 325, 326, 307 and 34 of IPC at Police Station City Sangrur, District Sangrur and was convicted and sentenced for a period of five years and fine of ₹ 15,000/- vide order dated 30.01.2018.

The petitioner has applied for parole to attend the marriage of his sister, namely, Rajveer Kaur which is fixed for 07.03.2018. Although, it is verified by the respondents as a matter of fact that the sister of petitioner is getting married on 07.03.2018 but his application has been turned down on

the ground that the petitioner cannot apply for parole unless he has suffered the conviction atleast for a period of four months in jail.

Learned counsel for the petitioner has submitted that the Punjab Good Conduct Prisoners (Temporary Release) Rules, 1963 cannot deny the parole in terms of Section 3 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 as the Rules cannot supersede the provisions of the Act and in this regard he has relied upon two decisions of this Court rendered in the case of Gurmit Singh Vs. State of Punjab and another ; 2016 (2) RCR (Criminal) 82 and Deepak Vs. State of Haryana and another ; 2014 (4) RCR (Criminal) 531.

It is also submitted that although the marriage of the prisoner's son or daughter is a ground for temporary release in terms of Section 3 (2) (b) but in an appropriate case for sufficient cause shown, order can be passed by this Court in terms of Section 3 (2) (d) in which is it mentioned "it is desirable so to do for any other sufficient cause." In this regard he has relied upon a decision of the Division Bench of this Court passed in CRWP No. 2714 of 2011 decided on 13.12.2011 titled as Suresh Kumar alias Tidda Vs. State of Punjab and others and has also referred another decision of the Division Bench passed in the case of Gurwinder Singh Vs. State of Punjab and others in CRWP No. 1621 of 2014 decided on 05.11.2014. In the case of Suresh Kumar (Supra), the convict was released on parole to attend the marriage of his sister and in the case of Gurwinder Singh, parole was granted to attend the marriage of the maternal uncle's daughter.

The only objection raised by the learned State counsel is on basis of Rule 3 (2) (ii) of the Rules which says that the application cannot be processed unless the prisoner had maintained good conduct after his

conviction atleast four months in jail. However, the factum of marriage of the petitioner's sister is not denied which has also been verified. It is also submitted that there is another case pending against the petitioner registered vide FIR No. 41 of 2017 under Sections 3, 4 and 5 of the Immoral Act at Police Station City Sangrur.

I have heard learned counsel for the parties and taking into consideration the facts and circumstances specially that the petitioner is convicted for the first time and his sister is getting married on 07.03.2018 and that his father is no more, he can be allowed to be released on parole in terms of Section 3 (1) (d) of the Act.

It is needless to mention that in the cases of Gurmit Singh and Deepak (Supra), this Court had already held that the Rules cannot supersede the provisions of the Act and in view thereof, respondent cannot place reliance on Rule 3 (2) (ii) of the Rules in order to deny the benefit of parole to the petitioner.

The present petition is thus allowed and the petitioner is hereby ordered to be released on parole for a period of two weeks which would be counted from the date of release subject to furnishing of personal bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Sangrur. He shall surrender in Jail after the expiry of two weeks as prescribed.

Copy Dasti.

March 6, 2018

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**(RAKESH KUMAR JAIN)
JUDGE**

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