

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

**CWP No. 4579 of 2018**

**Date of Decision: 07.03.2018**

***IRSHAD***

.....Petitioner

**V/S.**

***STATE OF HARYANA AND OTHERS***

.....Respondents

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

Present: Mr. S.K. Tripathi, Advocate,  
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

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**RAKESH KUMAR JAIN, J. (Oral)**

The petitioner has prayed for parole in terms of the provisions of Section 3 (1) (b) of the Haryana Good Conduct Prisoners (Temporary Release), Act 1988 (hereinafter referred to as 'the Act').

In brief, the petitioner was convicted and sentenced by the Court of learned Additional Sessions Judge, Rewari vide order dated 06.10.2017 for life imprisonment in a case registered vide FIR No. 131 dated 23.04.2016 under Sections 148/149/302 IPC registered at Police Station Dharuhera, Rewari.

The petitioner is a resident of Village Chilghatal, Police Station (Bhiwadi), District Alwar, Rajasthan and at present he is lodged in the District Jail, Gurugram. He has challenged his conviction and sentence by way of criminal appeal before this Court bearing No. CRA-D-997-DB of 2017 which has been admitted on 08.11.2017 and is pending adjudication.

The petitioner has prayed for parole on the ground that his father Sarfudin has expired on 27.01.2018 and his last rites shall be performed on 09.03.2018 in his village.

The respondents has filed reply in which it is objected that the petitioner has not completed a period of one year after conviction and has referred to Rule 4 (1) of the Haryana Good Conduct (Temporary Release) Rules, 2007, (hereinafter referred as 'the Rules') which provides that *"A prisoner shall be entitled to apply for parole only after he has completed one year of his imprisonment after conviction and has earned his first annual good conduct remission under the Act."*

Learned counsel for the respondents, on the asking of this Court, has also got verified from the Police Station Bhiwadi, District Alwar, Rajasthan about the factum of the death of Sarfudin (father of the petitioner) and that his last rites are to be performed on 09.03.2018. Learned State counsel has been informed by the SHO Police Station, Bhiwadi, District Alwar, Rajasthan that the Recitation of Quran is to take place on 09.03.2018 to mourn the death of Sarfudin.

Learned counsel for the petitioner submits that the petitioner is not involved in any other case and in the present case also the main accused was Pawan Kumar who had caused the fatal injury to the deceased.

Be that as it may, it has been held by this Court that the Rules cannot supersede the provisions of the Act in which it is not provided that application for parole would be entertained only after completion of 1 year after conviction. Therefore, keeping in view the facts and circumstances, much the fact that the petitioner is the elder son of late Sarfudin and has to offer *Namaz* on the death of his father on the ceremony to be held on 09.03.2018, the application filed by the petitioner for parole is accepted and he is directed to be released forthwith on parole for a period of 10 days which would be counted from the date of release, subject to furnishing of personal

bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Rewari. He is also directed to surrender to the Jail authorities on the date of completion of 10 days to suffer the remaining sentence.

Copy *Dasti*.

**March 7, 2018**

Ess Kay

**(RAKESH KUMAR JAIN)  
JUDGE**

|                                    |   |                      |   |           |
|------------------------------------|---|----------------------|---|-----------|
| <i>Whether speaking / reasoned</i> | : | <div>✓<br/>Yes</div> | / | <i>No</i> |
| <i>Whether Reportable</i>          | : | <div>✓<br/>Yes</div> | / | <i>No</i> |