

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

CWP No.6121 of 2018

Date of Decision: 13.03.2018

Satish Sharma

....Petitioner

Versus

State of Haryana and others

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Upender Prasher, Advocate
for the petitioner.

Mr. Rajesh K. Sheoran, Addl. A.G., Haryana
for the respondents-State.

DAYA CHAUDHARY, J. (ORAL)

The prayer in the present petition is for issuance of a writ in the nature of *mandamus* directing the respondents to grant emergency parole to attend the marriage of his niece, which is going to be held today i.e 13.03.2018.

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

The only objection raised is that as per provisions of Section 4 (1) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007, the petitioner is entitled to apply for parole on completion of one year of imprisonment after conviction, whereas, in the present case, the period of one year has not expired.

Learned counsel for the petitioner submits that the sentence awarded to the petitioner is only for a period of six months and hence, said Rule cannot be made applicable. He relied upon the judgment of this Court

in case ***Rajesh vs State of Haryana and others 2018(1) RCR (Criminal) 140.***

After hearing the arguments of learned counsel for the parties and by considering the undisputed fact of one year, the said provision of Rule 4(1) of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 cannot be made applicable and emergency parole cannot be denied only on this ground that the minimum undergone period is required to be of one year. Same issue was there in ***Rajesh's*** case (supra) as relied upon by learned counsel for the petitioner, wherein, it has been held that the Rules cannot override the provisions of the Act, as parole can be denied to the accused only on the grounds as specified under the Act.

In the present case, the sentence awarded to the petitioner is only for six months and emergency parole cannot be denied.

Accordingly, the present petition is allowed. The Superintendent District Jail, Faridabad is directed to release the petitioner on parole for a period of two days i.e 13.03.2018 and 14.03.2018 on furnishing adequate surety bonds to his satisfaction to attend the marriage of his niece.

Petitioner is also directed to surrender before the Superintendent District Jail, Faridabad on 15.03.2018 on completion of two days of parole i.e 13.03.2018 and 14.03.2018.

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

(DAYA CHAUDHARY)
JUDGE

13.03.2018
gurpreet

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No