

Sr. No.105

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

CWP No.8191 of 2018 (O&M)

Date of Decision: 12.04.2018

Jia Lal

... Petitioner

Versus

U.T., Chandigarh and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. G.S.Sandhu, Advocate,
for the petitioner.

Mr. Suvir Sehgal, Senior Standing counsel with
Ms. Ashima Mor, Advocate for UT, Chandigarh.

TEJINDER SINGH DHINDSA, J.(ORAL)

The instant petition has been filed under Article 226/227 of the Constitution of India praying for issuance of a writ of mandamus seeking release of the petitioner on parole for attending the marriage of his son which is stated to be fixed for 18.04.2018.

With the consent of the counsel for the parties, petition is taken up for final disposal today itself.

Custody certificate of the petitioner has been furnished by learned counsel representing U.T., Chandigarh and the same is taken on record.

Briefly it may be noticed that the petitioner is a life convict having been convicted for offence under Sections 460/302/120-B IPC pursuant to having faced trial in FIR No.225

dated 17.08.2000, Police Station West Chandigarh. Petitioner is currently lodged at Modal Jail, Burail, Chandigarh.

Pleadings on record would indicate that an application preferred by the petitioner seeking parole has been declined in pursuance to the recommendation that has come from the District Magistrate, Amethi and addressed to the Inspector General, Prison Administration, Union Territory, Chandigarh (Annexure P-3).

In the communication dated 21.02.2018 at Annexure P-3 it has been observed that in order to preempt any law and order situation as also on account of the fact that there are other family members of the prisoner/petitioner to participate in the marriage function, the concession of grant of parole be not approved. Even the reply filed to the instant petition is on the similar lines.

Counsel for the parties have been heard at length.

The factum of the marriage of the son of the petitioner to be solemnized on 18.04.2018 stands duly verified and is conceded.

Section 3 of the Punjab Good Conduct Prisoners (Temporarily Release) Act, 1962 would cover the subject at hand and reads in the following terms:-

“3 (1) The State Government may, in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-section (2) any prisoner if the State Government is satisfied that:-

a) a member of the prisoner's family has died or is seriously ill; or

b) the marriage of prisoner's son or daughter is to be celebrated or;

c) the temporary release of the prisoner is necessary for sloughing, sowing or harvesting or carrying on any other agricultural operation on his land and no friend of the prisoner or a member of prisoner's family is prepared to help him in this behalf in his absence; or

d) It is desirable so to do for any other sufficient cause.

2) The period for which a prisoner may be released shall be determined by the State Government so as not to exceed:-

a) where the prisoner is to be released on the ground specified in clause (a) of sub-section (1), two weeks;

b) where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1), four weeks; and

c) where the prisoner is to be released on the ground specified in clause sub-section(1), six weeks.

3) *The period of release under this section shall not count towards the total period of the sentence of a prisoner.*

4) *The State Government may by notification authorize any officer to exercise it's power under this section in respect of all or any of the ground specified therein."*

Apart from other circumstances, temporary release of a prisoner is admissible on account of the marriage of the son or daughter.

The reason assigned while declining parole that is to prevent any situation/incident disturbing law and order cannot sustain in the present case.

Such view is being taken against the admitted position of the fact that on a previous occasion petitioner had been granted parole for a period of 28 days and which concession had not been misused.

Learned counsel representing U.T., Chandigarh does not refer to any change of circumstance since the last occasion when parole was granted.

As regards presence of other family members to participate in the marriage of the son of the petitioner, the same cannot be seen as an embargo in the light of Section 3 of the Punjab Good Conduct Prisoners (Temporarily Release) Act, 1962 reproduced hereinabove. Such reasoning is alien to the provision.

In view of the above, prayer for grant of parole is accepted.

It is directed that petitioner be released on parole for a period of 10 days commencing w.e.f. 13.04.2018 on imposition of conditions as may be deemed fit by the competent authority.

Petition is allowed in the aforesaid terms.

A copy of this order be furnished to learned counsel for the petitioner under signatures of the Bench Secretary.

Petition disposed of.

12.04.2018

vandana

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No