

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.9692 of 2018
Date of Decision:08.08.2018

Sarwan Ram

. Petitioner

Vs.

State of Punjab and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Kamal Singh, Advocate,
for the petitioner.

Mr.Ayush Sarna, AAG, Punjab.

RAKESH KUMAR JAIN, J.

The petitioner has prayed for a writ in the nature of mandamus to direct the respondents to grant him six weeks parole for the treatment of his wife.

In brief, the petitioner has been convicted on 14.5.2010, sentenced for 10 years with fine of ₹1 lakh and is presently confined in Central Jail, Patiala. He was released on parole for four weeks on 6.2.2012 with a specific direction to surrender at the Central Jail, Patiala on 6.3.2012 but he did not surrender and was ultimately arrested and re-admitted in jail on 18.6.2014 after overstaying for a period of 2 years, 3 months and 12 days. A complaint No.106 of 2014 under Section 9 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 [for short 'the Act'] was registered in the Police Station Kotwali, Patiala against the petitioner in this regard in which he was tried and sentenced on 22.7.2015 and suffered rigorous

imprisonment for 2 years, 3 months and 12 days with fine of ₹200/-. This sentence was to commence after the completion of his sentence in which he has already been lodged in jail. Later on the petitioner was granted emergency parole of two weeks because of the death of his grandmother Jetti Devi wife of Bhiram Ram. He was released on 18.10.2016 on emergency parole for a period of 15 days and had surrendered on 3.11.2016. The petitioner has now applied for parole to the Superintendent, Central Jail, Patiala for a period for six weeks. His application has been forwarded directly to the Additional Director General of Police (Prisoners), Punjab. The report of the District Magistrate, Jodhpur dated 11.9.2017 is against the petitioner in view of his past conduct that there is a likelihood of his absconding after obtaining the benefit of parole.

Learned counsel for the petitioner has submitted that the petitioner has a right to be released on parole in view of Section 3(1)(aa) of the Act on account of the illness of his wife which has not been considered by the respondents in their order and only his past conduct has been considered for refusing the parole. It is submitted that the petitioner, after having been convicted for the alleged offence of overstaying the period of parole was released on emergency parole for 15 days and the said concession was not misused by him. The petitioner has appended the report of the Doctor highlighting the illness of his wife, therefore, the prayer is made for reconsideration of his case in the light of the same.

I have heard learned counsel for the parties and after perusal of record, am of the considered opinion that though the conduct of the petitioner was not good as he had overstayed the period of parole for a long

time for which he had also been convicted and punished separately but thereafter when his grandmother died he was granted parole for 15 days which he did not misuse and now his wife is not well, therefore, the question as to whether the parole should be granted in the light of the fact that his wife is not well has to be considered by the authorities once again.

Thus, taking into consideration the aforesaid facts and circumstances, the present petition is hereby allowed and direction is issued to the respondents to consider the case of the petitioner in view of the illness of his wife. The respondents may secure opinion from the doctor attending his wife as to whether her illness is such which requires the attendance of the petitioner at home.

08.08.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No