

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

CWP No.2590 of 2019(O&M)

Date of decision: **February 04, 2019**

Resham Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr.Jaspreet Singh Brar, Advocate
for the petitioner.

Ms.Sunint Kaur, DAG, Punjab.

Harinder Singh Sidhu, J. :

Resham Singh - petitioner, who is undergoing imprisonment for life in FIR No.253 dated 20.9.2009 under Sections 201/302 registered at Police Station Baragudha, District Sirsa has filed the instant petition under Article 226 of the Constitution of India praying for his release on parole for four weeks to attend the marriage of his son. He is also convicted and sentenced for ten years in FIR No.108 dated 19.7.1998 under Section 18 of the NDPS Act registered at Police Station Baragudha, District Sirsa.

Learned counsel for the petitioner has contended that marriage of the son of the petitioner is fixed for 06.02.2019. It is stated that though the case of the petitioner was initiated for release on parole. However, before the release warrants could be issued, it was noticed by the Authorities that the petitioner was not eligible for parole as he had committed a 'prison offence' regarding which FIR No.235 dated 12.10.2018 under Section 22 of the NDPS Act was registered at

the communication dated 17.9.2002 from the office of Additional Director General of Police (Jails), Punjab, wherein, it is mentioned “If any convict commits a prison offence then his conduct will not be supposed to be good for a year from the date of commission of offence and no recommendation will be made for his parole release at least for 06 months from the date of commission of his prison offence.”

Learned counsel for the petitioner contends that he has already availed parole for more than 18 occasions and never misused the concession.

Learned State counsel has placed reliance on Rule 5 of the Punjab Good Conduct Prisoners (Temporary Release) Rules, 1963, which reads as under:-

“5. Warrant to be cancelled where prisoner commits an offence. [Section 10(1)] – *If any major jail offence is committed by the petitioner between the date of application for release and the receipt of the warrant for such release the prisoner shall not be released by the Superintendent without the previous approval of the Inspector-General. In case the approval is not given, the Superintendent of Jail shall return the release warrant to the Releasing Authority through the Inspector-General for cancellation indicating the details of the offence committed by the prisoner. The Releasing Authority may, on receipt of such report, cancel the release warrant.”*

Learned State counsel has argued that as the petitioner committed a 'prison offence' he is not entitled to the concession of parole.

A perusal of Rule 5 aforesaid reveals that it does not put a complete bar on the release of a prisoner who he has been alleged to have committed a prison offence, rather, it makes it clear that any such prisoner shall not be released without the approval of the Inspector General. Admittedly, the case has not been sent for the approval of the Inspector General.

Ordinarily, the case would have been remitted to the Inspector

General to decide as to whether the parole ought to be granted or not, however, considering that the marriage of the son of the petitioner is fixed for 6.2.2019, it is not possible to resort to that procedure.

Accordingly, in view of the peculiar facts and circumstances of the case, this petition is allowed. The petitioner is directed to be released on parole for a period of one week commencing from 05.02.2019 on his furnishing bonds to the satisfaction of the District Magistrate. He shall surrender on or before 12.02.2019 (5.00 pm) before the Jail Authorities.

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

February 04, 2019

**(HARINDER SINGH SIDHU)
JUDGE**

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No