

CWP No.2947 of 2019

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

CWP No.2947 of 2019

Date of decision: 14.02.2019

Jasmer Singh and another

....Petitioner

Vs.

State of Haryana and Others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. P.S. Jammu, Advocate
for the petitioner.

Mr. Sandeep Vashisth, DAG, Haryana.

HARINDER SINGH SIDHU, J.

This petition has been filed praying for direction to quash the order of the District Magistrate, Sirsa dated 25.01.2019 (Annexure P-2) whereby their application for parole has been rejected.

The petitioners are brothers. They have been convicted for offences under Section 148/323/324/325/307/149 IPC vide judgment and order dated 23.07.2018 of the Ld.Additional Sessions Judge, Sirsa. and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.25,000/-. In default of payment of fine, they are to further undergo rigorous imprisonment for 3 months. Their appeal is pending.

They submitted an application for release on parole to attend the marriage of Karandeep Singh son of Komalpreet Kaur sister of the petitioners, which is fixed for 17.02.2019. The application was rejected by the District Magistrate, Sirsa vide impugned order on the ground that the petitioners had not

completed one year sentence after conviction, which was required in terms of Rule

4 of the Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 (for short ("2007 Rules")).

In the reply filed on behalf of the respondents, it has been stated that the fact regarding the marriage of Karandeep son of Komalpreet Kaur was got verified from SHO, Police Station Sadar, Sirsa through Superintendent of Police, Sirsa. It has been reported that Karandeep Singh is son of Balraj Singh. He is resident of Aggarwal Colony, Fatehabad. Komaldeep Kaur wife of Balraj Singh is cousin (Bua ki ladki) of petitioners Jasmer Singh and Ajmer Singh. As per card, his marriage programme is fixed w.e.f. 11.02.2019 to 17.02.2019. It is further found that neither the parents nor the brothers of Komaldeep Kaur are alive. Hence, petitioners would be required to perform ceremony on the maternal side.

Thus, clearly the factum of the marriage of Karandeep Singh has been verified. It has also been verified that the petitioners, are the closest relatives on the maternal side of Karandeep Singh.

Section 3 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for short 'the Act') is as under:-

3. (1) The State Government may, in consultation with the District Magistrate or any other officer appointed in this behalf, by notification in the official Gazette 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 had died or is seriously ill or the prisoner himself is seriously ill; or

(b) the marriage of prisoner himself, his son, daughter, grandson, grand daughter, brother, sister, sister'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 or his father's undivided land actually in possession of the prisoner; or

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

xxx

xxx

xxx”

Section 3(1) (b) of the Act permits temporary release of a prisoner for his own marriage or for the marriage of his son, daughter, grandson, grand daughter, brother, sister, sister's son or daughter. As the petitioners seek temporary release to attend the marriage of the son of their cousin (Bua ki ladki) their case is not covered under Section 3(1)(b).

The question is whether their case can be considered under Section 3(1)(d) as per which the prisoner can be released for “any other sufficient cause”.

Rule 8 of the 2007 Rules enumerates certain reasons which may be considered as sufficient cause. The said Rule is reproduced below:

“8. Sufficient cause. [Sections 3(1)(d) and 10(2)(d)].- Under section 3(1)(d) "sufficient cause" may be considered from amongst the following reasons, namely:-

- (i) admission in school/colleges/professional institutions of the dependents of the convict;*
- (ii) medically scheduled delivery of wife of the convict;*
- (iii) house repairs/new construction of house owned by the convict. Parole for house repair shall be granted only once in three years;*
- (iv) marriage of prisoner's brother's son or daughter to be celebrated in case brother is not alive.*

In Sukho @ Manjeet Kaur v. State of Haryana (DB) 2017(2)

illustrative and cannot be considered to be exhaustive.

In *Raja v. State of Haryana and others* 2011 SCC OnLine P&H 13539

it was held that Section 3(1)(d) of the Act covers unspecified causes because it may not be possible to specify all the causes or grounds, on which a prisoner should be released on parole.

Considering that the parents and brothers of the mother of Karandeep Singh are not alive and the petitioners are the closest relatives on the maternal side of Karandeep Singh, their release may be justified under Section 3(1)(d).

The reliance by the respondents on Rule 4 of the 2007 Rules to deny parole to the petitioners also cannot sustain. A Division Bench of this Court in CRWP No.677 of 2014 '*Deepak Vs. State of Haryana and others* (decided on 03.06.2014) , held that the restriction of one year of imprisonment after conviction to be eligible for temporary release had been imposed by Rule 4 of the 2007 Rules could not supersede the substantive provisions of the Act, which contained no such restriction.

In view thereof, the impugned order declining parole to the petitioners on the ground that they had not completed one year imprisonment after conviction cannot sustain.

However, ceremonies and functions from the maternal side of the groom can well be performed by one of the petitioners and the presence of both the petitioners may not be required.

In view thereof it is deemed expedient and proper that petitioner No. 1 Jasmer Singh be released on parole.

Accordingly, this petition is allowed. Petitioner No. 1 Jasmer Singh is directed to be released on parole for a period of five days from 15.02.2019 to

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19.02.2019 on furnishing bail bonds to the satisfaction of the District Magistrate,
Sirsa. He shall surrender before the Jail authorities by 5.00 P.M., on 19.02.2019.

(HARINDER SINGH SIDHU)
JUDGE

February 14, 2019
Atul

Whether speaking/reasoned: Yes

Whether Reportable: Yes/No