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

CWP No.3984 of 2019

Date of decision: 15.02.2019

Ram Pal

....Petitioner

Vs.

State of Haryana and Others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Susheel Gautam, Advocate
for the petitioner.

Mr.Ramesh Kumar Ambavta, AAG, Haryana.

HARINDER SINGH SIDHU, J.

Ram Pal - petitioner, who is undergoing imprisonment for four years in FIR No.139 dated 2.5.2006 under Sections 148, 149, 323, 325 and 506 IPC registered at Police Station Pundri, District Kaithal has filed the instant petition under Articles 226/227 of the Constitution of India praying for his release on parole for three weeks to attend the marriage of his son fixed for 21/22.2.2019 and that the order dated 9.2.2019 (Annexure P-3) passed by the Superintendent Jail, District Jail, Kaithal rejecting his application for release on parole for the aforementioned purpose, be quashed.

The petitioner applied for parole to attend the marriage of his son, namely Vikas, which is stated to be fixed for 21/22.2.2019. A marriage invitation card is also enclosed herewith as Annexure P-1. However, his request for release

on parole was rejected by the Superintendent Jail, District Jail Kaithal in view of

Rule 4(1) of the Haryana Good Conduct Prisoner (Temporary Release) Rules 2007 which prescribes that a prisoner shall be entitled to apply for parole only after he has completed one year of his imprisonment after conviction and has earned his annual good conduct remission under the Act.

Reply by way of affidavit of Sukh Ram, Superintendent Jail, District Kaithal has been filed on behalf of the respondents – State in court, which is taken on record. In the reply also, Section 4(1) of the aforesaid Act has been referred to. It is also mentioned that the fact of marriage of petitioner's son has been got enquired through the SHO, Police Station Pundri, who has verified that marriage of Vikas son of Ram Pal (petitioner) has been fixed for 21/22.2.2019.

The reliance by the respondents on Rule 4 of the 2007 Rules to deny parole to the petitioner 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 and it could not supersede the substantive provisions of the Act, which contained no such restriction. To the same affect is Division Bench judgment of this Court in **Aman alias Kala vs. State of Haryana and others**, 2017 (3) RCR (Crl) 279

In view thereof, the impugned order declining parole to the petitioner on the ground that he has had not completed one year imprisonment after conviction cannot sustain. The petition is accordingly allowed. The impugned order is set aside.

Ordinarily, this case would have been remitted to the respondents to reconsider the case of the petitioner without taking into account the Rule 4(1) of

the Rules.

However, considering the urgency of the situation and that the marriage of the son of the petitioner is fixed for 21/22.2.2019, it is directed that the petitioner be released on parole for a period of ten days from from 18.02.2019 to 28..02.2019 subject to his furnishing necessary bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate, Kaithal. He shall surrender before the Jail Authorities on or before 5.00 PM on 28.2.2019.

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

February 15, 2019

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: Yes/No