

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4668-2019(O&M)
Date of decision: 22.02.2019

Sanjay Sharma .. Petitioner

vs.

State of Haryana and ors. .. Respondents

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Jagdish Manchanda, Advocate
for the petitioner.

Mr. Ramesh Kumar ambauta, AAG, Haryana

Harinder Singh Sidhu, J.

The petitioner has filed the present petition to release him on emergency parole for one week to enable him to attend the marriage of his nephew-Vikas, which is fixed for 21/22.02.2019 and to perform other rites and rituals in connection with the same.

The petitioner has been sentenced to undergo rigorous 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.

The petitioner had submitted an application on 5.2.2019 to the respondents for grant of emergency parole to enable him to attend the marriage of his nephew, which is fixed for 21/22.02.2019. As no decision was taken on the application, he filed the instant petition.

Notice of motion was issued. In response thereto, learned State counsel has placed on record report of SHO, Police Station Pundri, who has verified the factum of marriage of the nephew of the petitioner. The same is taken on the record.

Learned State counsel argued that the petitioner can not be released on parole as he has not completed the mandatory period of one year of imprisonment

after conviction, which is required under Section 4 of the Haryana Good Conducts Prisoners (Temporary Release) Rules 2007.

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 (CrI) 279.

As no order has been passed on the application of the petitioner, ordinarily, this case would have been disposed of by directing the respondents to decide the case of the petitioner without taking into consideration the objection of Rule 4 of the 2007 Rules.

However, considering the urgency of the situation and that the marriage of the nephew of the petitioner is fixed for 22.02.2019, it is directed that the petitioner be released on parole for four days i.e. from 22.02.2019 to 26.02.2019 subject to his furnishing surety bonds to the satisfaction of the CJM/Duty Magistrate concerned. He will surrender before the Jail Authorities on or before 5.00 PM on 26.02.2019.

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

(Harinder Singh Sidhu)
Judge

22.02.2019
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Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No