

CWP-5971-2019

[1]

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

**CWP No.5971 of 2019(O&M)
Date of decision: March 26, 2019**

Rishipal

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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

Mr. Sandeep Vashisht, DAG, Haryana.

HARINDER SINGH SIDHU, J.

This petition has been filed praying for directions to quash the order of the Superintendent, Central Jail, Ambala dated 25.2.2019 (Annexure P-4) whereby the application for release of the petitioner on parole has been rejected. It has also been prayed that the respondents be directed to release the petitioner on parole.

The petitioner is undergoing rigorous imprisonment for seven years in case FIR No.79 dated 11.8.2015 under Sections 307, 323, 326, 506/34 IPC, Police Station Panjokhra, District Ambala after his conviction by the trial Court. His appeal is pending adjudication before this Court.

The wife of the petitioner submitted an application to the Superintendent, Central Jail, Ambala for grant of parole to the petitioner to attend the marriage of his daughter, which is scheduled for 17.4.2019. It was rejected vide the impugned order. It was stated that since the petitioner has not completed one year of sentence after conviction, he is not entitled to parole.

Learned counsel for the petitioner contends that the marriage of the daughter of the petitioner, namely Preeti is fixed for 17.4.2019. The function of 'ladies sangeet' is scheduled for 16.4.2019. The petitioner being the father of the bride has to perform certain rites and rituals on the occasion. He submits that the marriage had been fixed prior to the conviction of the petitioner.

In the reply filed by Deputy Superintendent, Central Jail, Ambala, it is stated that as per Rule 4(1) of the Haryana Good Conduct Prisoner (Temporary Release) Rules 2007 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 first annual good conduct remission under the Act. The reply further states that Prison Inmate Calling System (PICS) facilities have been provided to the prisoners, enabling them to talk at two pre-specified numbers (after due verification) of the family members or advocates, five minutes a day.

The reliance by the respondents on Rule 4(1) 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 Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, which contained no such restriction. To the same effect is Division Bench judgment of this Court in **Aman alias Kala vs. State of Haryana and others**, 2017 (3) RCR (Crl) 279.

There is no other objection of the respondents to the grant of parole to the petitioner. The fact of the marriage of the daughter of the petitioner having been fixed on 17.4.2019 is not denied.

As per Section 3(1)(b) read with 3(2)(b) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, a prisoner, may be released temporarily for four weeks for the marriage of prisoner himself, his son, daughter, grandson, grand-daughter, brother, sister, sister's son or daughter.

Accordingly, this petition is allowed. The impugned order is set aside. The respondents are directed to release the petitioner w.e.f. 02.04.2019 to 23.4.2019 subject to his furnishing bond/ surety to the satisfaction of the District Magistrate/ Competent Authority. The petitioner shall surrender before the Jail authorities on the expiry of the parole period.

March 26, 2019

(HARINDER SINGH SIDHU)
JUDGE

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No