

**CWP-7527-2019**

**[1]**

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

**CWP No.7527 of 2019 (O&M)  
Date of decision: March 25, 2019**

**Balwan**

**...Petitioner**

**Vs.**

**State of Haryana and Others**

**...Respondents**

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Prateek Rathee, Advocate for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

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**HARINDER SINGH SIDHU, J.**

This petition has been filed praying for directions to the respondents to release the petitioner on parole.

The petitioner is undergoing life imprisonment in case FIR No.276 dated 16.9.2007 under Section 302, etc. IPC, Police Station Bahadurgarh, District Jhajjar after his conviction by the trial Court. His appeal is pending adjudication before this Court.

Earlier, the petitioner submitted an application to the Superintendent, District Jail Bhondsi, Gurugram which was not initiated. He filed CWP No.2115 of 2019 before this Court, which was dismissed as withdrawn with liberty to file a fresh petition. Hence, the present petition.

Learned counsel for the petitioner contended that the marriage of the nephew (son of sister) of the petitioner has been fixed for 27.3.2019. The presence of the petitioner is essential at the time of marriage of sister's son to perform the '*Bhat*' ceremony, which is to take place on 26.03.2019. A copy of the

marriage invitation card is placed on record as Annexure P-1. He states that the

petitioner had submitted an application on 20.02.2019 (Annexure P-2) seeking release on parole for the said purpose but no order has been passed on the said application. He further states that earlier also the petitioner had availed of the concession of temporary release from 16.4.2018 to 10.5.2018. The petitioner had surrendered on time on expiry of parole period. There is no complaint or allegation that he misused the concession of parole.

In the reply filed by the Superintendent, District Jail, Gurugram it is stated that the petitioner has been convicted in three different cases under Section 302 etc. and sentenced to undergo life imprisonment. He is thus a 'hardcore prisoner' as per the provisions of Section 2(aa)(i)(8) of the Haryana Good Conduct Prisoners (Temporary Release) Act as amended in 2013. However as he has completed the requisite period of five years after conviction including two years of under trial period as required in sub-section (2) of Section 5-A of the Act, he is eligible for release on parole. It has been stated that in three cases, the petitioner has been convicted and his sentence is suspended by this Court pending appeals. In four cases he has been acquitted by the concerned Trial Courts. On 7.10.2014, the petitioner along with other prisoners allegedly committed the murder of other under-trial prisoner Vineet @ Monu @ Chhatri, for which FIR No.283/2014, under Sections 148, 149, 323, 324, 120-B, 302, 303/34 IPC was registered at Police Station Bhondsi, Gurugram. In the said case, the petitioner has been granted bail on 18.8.2016.

During search on 20.5.2015, a mobile phone was recovered from the possession of the petitioner in the jail premises, for which an FIR under Section 42 of the Prisons Act was registered. He was acquitted vide judgment dated

The petitioner had availed 10 days parole from 16.4.2018 to 27.4.2018, which was extended till 10.5.2018 by this Court. He had surrendered on 11.5.2018.

The fact of the marriage of nephew of the petitioner having been fixed for 27.3.2019 is verified. 'Bhat ceremony' is fixed for 26.3.2019. There is no objection of any villager to the petitioner attending the marriage. But it is denied that any application for release on parole for the said purpose was submitted by the petitioner. It is also stated that as per police report as the petitioner is convicted for heinous crime it is apprehended that he may commit heinous crime if released on parole or may abscond.

From the reply, it is clear that though the petitioner is a 'hardcore prisoner' but in view of his having completed five years after conviction including two years as under trial he is eligible for parole. In all the other cases where he is convicted his sentence has been suspended. In four cases he has been acquitted. The factum of the marriage of the nephew of the petitioner has been verified. The only ground for opposing his release on parole is the apprehension of the police that he may commit any heinous crime if released on parole or may abscond. This ground is belied by the fact that the petitioner had availed 10 days parole from 16.4.2018 to 27.4.2018, which was extended till 10.5.2018. After the expiry of the parole he had surrendered on 11.5.2018. There is no complaint that he misused the concession of parole.

It has been held by Division Bench of this Court in **Ram Chander Vs. State of Punjab and others 2017(3) RCR(CrI) 340** that likelihood of committing a crime while on parole would not be a sufficient ground to deny temporary

release on parole as merely likelihood of committing a crime is not to be taken as

apprehension of a threat to the security of the State or maintenance of public order.

Temporary Release Acts envisage temporary release of convicts. Mere fact that a person is convicted for an offence does not mean that he will abscond if he is released on parole. As held by a Division Bench of this Court in **Baljit Singh Vs. State of Punjab 2017(2) Law Herald 1796** if the State has any apprehension that the convict will jump parole and abscond it can always impose adequate conditions including asking for heavy surety.

As no order has been passed by the respondents on the application of the petitioner and they in fact deny having received any such application, ordinarily in such a case the petition would have been disposed of with a direction to the respondents to consider the case of the petitioner expeditiously in the light of the observations made in this petition.

However, considering the urgency of the situation and that the marriage of the nephew of the petitioner is fixed for 27.3.2019, this petition is allowed. It is directed that the petitioner be released on parole for three weeks i.e. from 26.03.2019 to 16.04.2019 subject to his furnishing surety bonds to the satisfaction of the District Magistrate/competent authority concerned. He shall surrender before the Jail Authorities before 3.00 PM on 16.04.2019.

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

March 25, 2019

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( **HARINDER SINGH SIDHU** )  
**JUDGE**

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|-----------------------------|----------|
| Whether Speaking / Reasoned | Yes      |
| Whether Reportable          | Yes / No |