

CWP-7822-2019

[1]

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

**CWP No.7822 of 2019 (O&M)
Date of decision: April 01, 2019**

Sanjiv Anand

...Petitioner

Vs.

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Gourave Bhayyia Gilhotra, Advocate
for the petitioner.

Mr. Sandeep Vashisth, DAG, Haryana.

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 sentence of imprisonment for 1½ years after his conviction in a case under Section 138 of the Negotiable Instruments Act, 1881 filed against him by one Ashwani Kumar for recovery of Rs.2,00,000/-.

It is stated that the petitioner is suffering from a disease called 'Pancreatitis' Surgery is required to be conducted by Specialist Doctor at a specialised Institute, but the Jail Authorities are treating him as a regular patient. Two times he has been taken to PGI for medical examination. It is further stated if not given proper treatment the petitioner can even go into deep traumatic condition or may die.

In the reply, 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 medical status report of the petitioner is annexed as R-1 with the reply. As per this, the petitioner is k/c/o Pancreatitis Cancer and Cardiology. He is under treatment from PGI, Chandigarh, GH Ambala City, GMCH-32, Chandigarh and as well as from Central Jail Hospital, Ambala. He was referred to aforesaid Medical Institutes repeatedly for his better treatment, care and management. Outside medicines were also procured through local chemist in Emergency for the petitioner. Presently, the petitioner is admitted in H-1 Ward of Central Jail Hospital for his better care. Special diet is being provided to him. On 12.3.2019 suddenly, the petitioner suffered from severe abdominal pain and was referred to DCH, Ambala City in Emergency. On 27.03.2019, he was referred to District Civil Hospital in NCD Clinic for follow-up. The report further states that pancreas head appears bulky and shows a hypo echoic and size was 2.1 x 1.5 cm2.

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 (Cr1) 279.

There is no other objection to the grant of parole to the petitioner. The fact that the petitioner is in emergent need of medical care and attention is apparent from his medical report (Annexure R-1). He is admitted in Central Jail Hospital. Repeatedly the Jail Authorities have had to take him to District Civil Hospital, Government Hospital Ambala City, Government Medical College and Hospital Chandigarh and Post Graduate Institute of Medical Sciences and Research Chandigarh.

In view of his medical condition, the petitioner would be entitled to release on parole.

Accordingly this petition is allowed. The respondents are directed to release the petitioner on parole for a period of three weeks subject to his furnishing bond/ surety to the satisfaction of the District Magistrate/ Competent Authority concerned.

April 01, 2019

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**(HARINDER SINGH SIDHU)
JUDGE**

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No