

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 8140 -2019(O&M)

Date of decision: 17.05.2019

Ehsanullah

.....Petitioner

versus

UT Chandigarh and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Vishal Khatri, Advocate for the petitioner
Kr.Yashwant Singh Rathore
Additional Public Prosecutor U.T. with
Ms.Sudha Singh, Advocate

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Heard.

Petitioner is undergoing rigorous imprisonment for five years after being convicted under Section 304 Part II IPC after judgment of conviction under Section 302 IPC was modified by this Court vide order dated 18.1.2019.

The petitioner is Afghan national. Earlier, he applied to this Court for solemnizing marriage. This Court vide order dated 11.10.2018 directed the jail authorities to make necessary arrangements for solemnizing marriage in police custody. Marriage was accordingly solemnized and petitioner was brought back to jail.

Now, this petition has been filed under Articles 226/227 of Constitution of India for quashing order dated 24.1.2019 (Annexure P5) and allowing the petitioner to release him on temporary parole for six weeks for

registration of marriage.

The respondents have submitted the reply. Custody certificate dated 4.4.2019 has also been filed which shows that out of imprisonment of five years, he has undergone imprisonment for 3 years 7 months and 1 day as on 4.4.2019.

Learned counsel for the UT Chandigarh has argued that in the judgment of conviction, it was directed that after serving the sentence, he will be deported. Therefore, parole has been opposed.

I am of the view that though the petitioner may not be released on parole but he can be allowed to be taken to the office of Registrar of Marriage, UT Chandigarh for the purpose of registration of marriage, as was done when the marriage was allowed to be performed in police custody. UT Chandigarh has the apprehension that if he is released on parole he can jump the parole and may possibly leave the country. Therefore, while taking into consideration the apprehension of the UT Chandigarh, the impugned order dated 24.1.2019 (Annexure P5) is modified to the extent that in place of releasing the petitioner on parole, he will be taken in custody before Registrar of Marriage, UT Chandigarh for the purpose of registration of marriage on the date to be intimated by the petitioner to the jail authorities. It is further directed that if the petitioner is required to appear subsequently also on another date for completing the formalities of registration of marriage, he can be taken on the subsequent date also for completing the formalities of registration of marriage in police custody.

The petition is accordingly disposed of.

17.05.2019

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:
Whether Reportable:

Yes
No