

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

**CWP-8925-2019 (O&M)
Date of decision : 9.4.2019**

Sohan Kumar

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Ravinder Bangar, Advocate for the petitioner.

Mr. Sandeep Vashisth, DAG, Haryana.

KULDIP SINGH, J.

Heard.

Petitioner seeks four weeks parole to attend the marriage of his nephew which is fixed for 22.4.2019.

It comes out that petitioner is undergoing life imprisonment in case vide judgment of conviction and order of sentence dated 18.3.2017, passed by learned Additional Sessions Judge, Gurugram. Kiran Sharma-sister of the petitioner moved an application dated 19.3.2019 to the Jail Superintendent District Jail, Gurugram Bhondsi for releasing him on parole for four weeks to enable him to attend the marriage of his nephew (sister's son) which is fixed for 22.4.2019 and also perform the *Bath* ceremony for which he has to arrange money and clothes etc. No order was passed by the jail authorities on the said application.

Learned counsel for the petitioner has produced on file the copy of the letter dated 3.4.2019 sent by Superintendent of Prison, District Prison, Gurugram stating that due to Model Code of Conduct, petitioner cannot be released on parole.

State has also filed short reply by way of affidavit of Jai Kishan Chillar, Superintendent District Jail, Gurugram stating that petitioner was granted furlough for two times and parole for three times. Details of which are given in the reply. Petitioner was lastly granted parole for the purpose of child admission from 14.2.2019 to 15.3.2019. It is stated that conduct of the prisoner in the jail is good. The factum of the marriage has also been verified through police. State has taken the plea that petitioner could be released on parole either under Clause 3(1) (b) and 3(1) (d) for four weeks in one calendar year under the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for short 'the Act'). Since the petitioner has already availed parole for child admission under Section 3(1) (d) in the calendar year, therefore, he cannot be released on parole.

The facts admitted by the State shows that petitioner was earlier released either on furlough or parole five times. His work and conduct in the jail is good. Therefore, apparently on account of his background, there is no bar. Only two contentions have been raised to oppose the parole, one is the operation of the Model Code of Conduct due to elections of Lok Sabha and the second is the bar under Section 3(2) (b) of the Act.

I am of the view that marriage is fixed for 22.4.2019. The elections are to be held in State of Haryana on 12.5.2019. Therefore, petitioner can be directed to be released for a limited period to surrender well before the elections. Regarding the bar, I am of the view that in cases of emergency, like marriage of the nephew, the emergency parole can be granted by the Court, notwithstanding Section 3(2) (b) of the Act.

Accordingly, present petition is allowed and the petitioner is ordered to be released on parole for 10 days i.e. from 18.4.2019 to 27.4.2019 on furnishing adequate surety to the satisfaction of the District Magistrate concerned. Model Code of Conduct will not come in the way of release of the petitioner. Petitioner will surrender before the jail authorities on 28.4.2019 morning.

Disposed of.

(KULDIP SINGH)
JUDGE

9.4.2019
preeti

Whether speaking / reasoned	Yes/No
Whether Reportable:	Yes/No