

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 13.09.2019****CWP No.23168 of 2019 (O&M)**

Balwan

...Petitioner

Vs.

State of Haryana & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

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

Mr. Saurabh Mohunta, DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)**CM No.13454 of 2019**

Application is allowed as prayed for. Medical Report (Annex P-5) filed in compliance of the order dated 04.09.2019 is taken on record.

CWP No.23168 of 2019

1. The instant petition has been filed by the petitioner seeking directions to the respondents to release him on emergency parole for a period of three weeks for getting his mother operated. Petitioner claims that his mother is suffering from heart ailments and brain tumor (2nd stage).
2. It may be mentioned, when the matter came up on 29.08.2019, following order was passed:

“The contempt petition is pending for non-compliance of the directions of this Court for consideration and deciding the parole application. Next date of hearing in the contempt is 30.10.2019. A contempt petition is not a substitute for the petition seeking relief as the purposes of the proceedings are different. The petitioner prays for parole for the reason that

his mother is suffering from brain tumor and has to be operated. The date was given for surgery but due to lack of attendant she could not visit the hospital. The petitioner has served more than 10 years of sentence.

Twice in the past he has been granted parole under Court directions.

Issue notice of motion to the respondents.

On the asking of the Court, Mr. Saurabh Mohunta, Deputy Advocate General, Haryana accepts notice on behalf of the respondents. Mr. Rathee to supply requisite number of copies of paper book in the office of Advocate General, Haryana during the course of the day.

Learned State counsel prays for time to file reply.

Medical reports be obtained immediately.

List on 04.09.2019.

To be shown in urgent list for final disposal”

3. Subsequently, the matter was adjourned sine die with the following order:

“Reply filed in Court is taken on record.

Adjourned *sine die* with liberty to the petitioner to make an application informing the date when the surgery is to be performed on the mother of the petitioner who is stated to be suffering from brain tumor.”

4. As per follow up card (Annex P-5), the surgery of petitioner’s mother has been advised to be performed on 18.09.2019 for brain tumor by the Doctors of Pt. B.D.Sharma Post Graduate Institute of Medical Sciences, Rohtak.

5. Having heard learned counsel for the parties and taking into consideration the medical condition of the petitioner’s mother, I am of the view that the presence of the petitioner is required to administer to the ailing

mother on humanitarian grounds being an emergency situation as she is suffering from brain tumor.

6. In view thereof, the petition is allowed and the respondents are directed to release the petitioner on emergency parole for three weeks from 16.09.2019 onwards to the satisfaction of the District Magistrate concerned, who is further directed to impose such conditions as may be required in the Jail Manual toward the ends of securing the presence of the petitioner in jail after the period of parole is over and done with and that the temporary release is not misused.

6. Petition stands allowed accordingly.

13.09.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>