

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

Date of decision: 31.10.2019

CM No.16338 of 2019 and
CM No.16342 of 2019 in/and
CWP No.30266 of 2019

Naveen Kumar

...Petitioner

Vs.

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Jasbir Mor, Advocate, for the applicant.

Ms. Kamaljeet Kaur, Advocate, for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

RAJIV NARAIN RAINA, J. (ORAL)

CM No.16338 of 2019

Notice of the application.

Ms. Kamaljeet Kaur, Advocate, accepts notice on behalf of the non-applicant/petitioner.

Having heard learned counsel for the parties, application is allowed. Applicant – Kamlesh wife of Karambir is ordered to be impleaded as party respondent No.5.

CM No.16342 of 2019 in/and
CWP No.30266 of 2019

Notice of the application.

Ms. Kamaljeet Kaur, Advocate, accepts notice on behalf of the non-applicant/petitioner.

This is an application for recall of the order dated 24.10.2019, whereby this Court granted parole to the petitioner for one week i.e. w.e.f. 01.11.2019 to 07.11.2019. The order reads as follows:

“Through this petition a writ in the nature of mandamus is sought for directing the respondents to grant the benefit of emergency parole to the petitioner for one week i.e. from 01.11.2019 to 07.11.2019 as the expected date of delivery of his wife is 02.11.2019.

The petitioner was convicted and sentenced to undergo rigorous imprisonment for 10 years under Sections 363/366-A IPC and Section 6 of the Prevention of Children from Sexual Offence Act, 2002, in case FIR No.62 dated 28.03.2017, registered at Police Station Alewa, District Jind, Haryana.

Mr.Mohunta submits that despite all efforts he has not received any response from the respondent authorities. Normally, this Court would have granted time to the State to file reply but looking into the reason for parole, the Court would not insist on a report from the respondents by accepting the statement of the petitioner that he wants temporary release by way of parole as his wife is expecting a child with the tentative date as 02.11.2019. This is an emergency situation, which can be taken care of by appropriate directions to the respondents to release the petitioner on parole to be with his wife well before the expected date of delivery.

In view of the above, the petition is allowed. The petitioner is granted parole for one week i.e. w.e.f.01.11.2019 to 07.11.2019 to the satisfaction of the District Magistrate concerned, who is further directed to impose such conditions as are required to secure the presence of the petitioner in jail after the period of parole, is over and done with.”

Today, Mr. Mor has brought to the notice of this Court that Pinki, wife of the petitioner, has already delivered a male child on 08.09.2019. Upon this, the case was passed over asking Mr. Saurabh Mohunta, DAG, Haryana to verify the fact from the Jail Authorities in Jind.

After pass-over, Mr. Saurabh Mohunta on instructions from Charan Singh, Deputy Superintendent, District Jail, Panipat, informs the Court that he has got verified the fact from Vardaan Hospital, Jind where the child was born. There is other documentary evidence produced by Mr. Mor alongwith his application.

The complainant/respondent No.5 is the victim party. The petitioner has been convicted for a heinous crime under the Prevention of Children From Sexual Offence Act, 2012. The victim and her family members have sufficient locus standi and the right to bring true facts to this Court. It is apparent that the petitioner did fail to disclose this material fact in the petition, which led to the passing of the order dated 24.10.2019.

Accordingly, while allowing the instant application, the order dated 24.10.2019 is recalled and the main petition is ordered to be dismissed for suppression of material facts, which if disclosed would have disintitled the petitioner for parole on the ground sought.

31.10.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No