

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

CWP No.38156 of 2018(O&M)
Date of decision: February 04, 2019

Pankaj

...Petitioner

Versus

The State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr.Govind Chauhan, Advocate
for the petitioner.

Ms.Anupriya Gupta, DAG, Haryana.

Harinder Singh Sidhu, J. :

Pankaj - petitioner, who is undergoing imprisonment for 10 years in FIR No.216 dated 8.5.2014 under Sections 498-A, 304-B read with Section 34 IPC registered at Police Station Civil Lines, District Rohtak has filed the instant petition under Articles 226/227 of the Constitution of India praying for his release on parole for the purpose of treatment of his grand-mother and that the order dated 12.12.2018 (Annexure P-2) passed by the Director General of Prisons – respondent No.2 rejecting his application for release on parole be quashed.

Respondent No.2 has rejected the request on the ground that grand-mother is not treated as member of the family under Section 2(b) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (for short “the Act”) which defines member of prisoner's family to mean the husband, wife, son, daughter, father, mother, brother or sister of a prisoner.

Pursuant to the order of this Court dated 22.1.2019 requiring the petitioner to disclose the number of children and grand-children of his grand-mother, an affidavit of the father of the petitioner has been filed. He has stated that Ram Piari (grand-mother of the petitioner) has four children i.e. one son and three daughters, namely Krishan Lal (father of the petitioner), Sudesh, Darshha and Anju. The daughters of Ram Piari are married and are living with their in-laws. Ram Piari is residing with Krishan Lal, who has two sons and a daughter. The one son is the petitioner, who is seeking release on parole. The other son is a student. The daughter of Krishan Lal is residing in Australia. In these circumstances, it is stated that the petitioner is required for taking care of his grand-mother.

Section 3 of the Act is as under:-

3. (1) The State Government may, in consultation with the District Magistrate or any other officer appointed in this behalf, by notification in the official Gazette and subject to such conditions and in such manner as may be prescribed, release temporarily for a period specified in sub-Section (2), any prisoner, if the State Government is satisfied that-

(a) a member of the prisoner's family had died or is seriously ill or the prisoner himself is seriously ill; or

(b) the marriage of prisoner himself, his son, daughter, grandson, grand daughter, brother, sister, sister's son or daughter is to be celebrated; or

(c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agricultural operation on his land or his father's undivided land actually in possession of the prisoner; or

(d) it is desirable to do so for any other sufficient cause.

xxx

xxx

xxx”

Section 3(1) (a) of the Act permits temporary release of a prisoner where a member of the prisoner's family had died or is seriously ill or the prisoner himself is seriously ill. Grandmother is not included within the definition of Family as per Section 2(b) of the Act. Thus the respondents are right in contending that the case of the petitioner is not covered under Section 3(1)(a).

The question is whether his case can be considered under Section 3(1)(d) as per which the prisoner can be released for "any other sufficient cause".

Rule 8 of the 2007 Rules enumerates certain reasons which may be considered as sufficient cause. The said Rule is reproduced below:

"8. Sufficient cause. [Sections 3(1)(d) and 10(2)(d)].- Under section 3(1)(d) "sufficient cause" may be considered from amongst the following reasons, namely:-

- (i) admission in school/colleges/professional institutions of the dependents of the convict;*
- (ii) medically scheduled delivery of wife of the convict;*
- (iii) house repairs/new construction of house owned by the convict. Parole for house repair shall be granted only once in three years;*
- (iv) marriage of prisoner's brother's son or daughter to be celebrated in case brother is not alive."*

In **Sukho @ Manjeet Kaur v. State of Haryana (DB) 2017(2) R.C.R.(Criminal) 1046**, it was held that the grounds mentioned in Rule 8 are only illustrative and cannot be considered to be exhaustive.

In **Raja v. State of Haryana and others** 2011 SCC OnLine P&H 13539 it was held that Section 3(1)(d) of the Act covers unspecified causes because it may not be possible to specify all the causes or grounds, on which a prisoner should be released on parole.

It has come on record that grand-mother of the petitioner is 92 years old and is undergoing treatment from Pt. B.D.Sharma PGIMS Rohtak. The father of the petitioner is aged about 60 years and thus cannot independently take care of his ailing mother.

In the circumstances the case of the petitioner would be covered under Section 3(1)(d).

Accordingly, the petition is allowed. The impugned order (Annexure P-2) is quashed. 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. The petitioner shall surrender before the Jail authorities on the expiry of three weeks of his release.

February 04, 2019
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(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No