

CWP NO.33609 OF 2019

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

**CWP No. 33609 of 2019
Date of Decision: 19.11.2019**

Pukhraj Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

2. CWP No. 33612 of 2019

Sukhwinder Singh

...Petitioner

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Mandeep Kumar Dhot, Advocate
for the petitioner.

RAJIV NARAIN RAINA, J. (Oral)

1. These two petitions have come up for preliminary hearing today in which the father and son both are lodged in jail serving two year sentences on conviction for committing offences under Sections 341, 323, 201 and 325 read with Section 34 of the IPC.

2. Notice of motion.

3. Ms. Anu Pal, DAG Punjab accepts notice on behalf of the respondents.

4. In the father's petition, (CWP No. 33612 of 2019) he has prayed for temporary release on parole to attend the marriage of his daughter which is due to be solemnized on 24.11.2019. In the 2nd petition (CWP No. 33609 of 2019) the petitioner has sought the same relief of

parole to attend the marriage of his sister.

5. Section 3(b) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 allows the concession of parole to convicts to attend the marriage of prisoner's son or daughter but sister is not included in the provision. The father has a case for parole but if Section 3(b) is read literally then the brother would be excluded from attending his sister's marriage. This appears to be an anomalous situation but to tide over the hurdle, the Court can step in *ex-debito justitiae* to enable the brother to attend the wedding.

6. Learned counsel for the petitioner cites the decision of this Court in Ravi Bhushan vs. State of Punjab and another, 2014 (14) RCR (Criminal) 756 in which this Court allowed the benefit of parole to attend the marriage of sister, while relying on the decision of a Division Bench judgment in CWP No. 2714 of 2011, Suresh Kumar alias Tidda vs. State of Punjab and others decided on 13.12.2011 allowing parole to attend the wedding of sister even when the request did not squarely fall in Section 3(1) (b) of the Act since sister is not mentioned in the provision. The Division Bench with the aid of Section 3(1)(d) granted the temporary relief, which provision allows parole for 'any other sufficient reason' thus arriving at a conclusion that the petitioner Suresh Kumar was entitled to the benefit of emergency parole in terms of Section 3(1)(d) of the Act.

7. In view of the above, both the petitions are allowed. The impugned order (Annex. P-9) common in both the petitions is set aside. The petitioners are granted emergency parole for 10 days from the date of release to the satisfaction of the District Magistrate concerned, who is

CWP NO.33609 OF 2019

further directed to impose such conditions as may be required in the Jail Manual toward the ends of securing the presence of the petitioners in jail after the period of furlough, is over and done with and the temporary release is not misused.

19.11.2019
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(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*