

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.34058 of 2019

Date of Decision:25.11.2019

Satish Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr.Ravinder Bangar, Advocate
for the petitioner

Mr.Kapil Bansal, DAG Haryana

RAJIV NARAIN RAINA, J. (ORAL):

1. By way of this petition, the petitioner has sought a writ in the nature of certiorari for quashing of the order dated 18.11.2019 (P-1) passed by respondent No.4 whereby benefit of parole to the petitioner has been denied. Also claimed is a writ in the nature of mandamus directing the respondents/State to grant the benefit of emergency parole to the petitioner for a period of three weeks on account of death of his mother-in-law.

2. The petitioner was convicted and sentenced to undergo life imprisonment under Sections 302/148/149/323/324/427/506 IPC in case FIR No.148 dated 12.10.2009 registered at Police Station Mullana, District Ambala. The appeal against conviction and sentence is pending before this Court.

3. The petitioner has sought emergency parole to attend the

13th day ritual following the death of his mother-in-law. She died and was cremated on 14.11.2019. The petitioner is serving life sentence for murder. He has been in jail since his conviction by the trial Court in the year 2015. He has undergone actual sentence for 04 years and 06 months as per the reply dated 23.11.2019 filed by the Deputy Superintendent, Central Jail, Ambala, on behalf of respondents No.1 to 5, which is taken on record.

4. Section 3(1)(a) of the Haryana Good Conduct Prisoner (Temporary Release Act) 1988 provides emergency parole in case where a member of the prisoner's family has died or is seriously ill or the prisoner himself is seriously ill.

5. Section 2(b) of the Act, defines “members of prisoner's family” which includes husband, wife, son, daughter, father, mother, brother or sister of the prisoner.

6. Keeping in view the above mentioned rules, the respondents have declined the application of the petitioner's wife on behalf of her husband, the prisoner, on the ground that the case is not covered by the provisions of the Act. There is no provision for parole for death of the mother-in-law. The State has relied upon a Division Bench judgment of this Court in CRWP No.483 of 2012, decided on 16.03.2012, “Jagdev Singh and another vs. State of Punjab and others” in support of the order, wherein the Bench observed that if the statutory rules impose a legal bar on consideration of the case of the petitioner for temporary release under the aforesaid Act, the same ought not to be

overcome by a judicial order.

7. Dismissal of the petition has been sought by the State on this sole ground.

8. In the light of the rules of emergency parole, there appears to be no legal infirmity in the order declining parole as the petitioner or his wife's request for parole does not fall within the ambit of the definition of family members to cover the death of the mother-in-law. It is for the legislature to consider inclusion, exclusion, enlargement of scope of the members of the prisoner's family entitled to parole, which cannot be re-defined by the Court. It is not for the Court to re-classify the provisions of the Act or re-draft the law.

9. In view of the legal position, this Court is constrained to dismiss the petition, had it even been inclined to do so on humanistic considerations.

25.11.2019

neenu

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable-

Yes/No