

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

**CRWP No.2718 of 2019
Date of decision:01.01.2020**

Mintu

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. R.S.Dhull, Advocate
for the petitioner.

Mr. Kapil Bansal, D.A.G., Haryana.

SUVIR SEHGAL, J.

The petitioner is a convict and is undergoing sentence of life imprisonment awarded to him in FIR No.55 dated 11.04.2013 under Sections 376-D, 506 and 34 of Indian Penal Code, registered at Police Station Rajound, District Kaithal. Criminal Appeal No.1243-DB of 2013 filed by him against his conviction and sentence was dismissed by a Division Bench of this Court on 24.05.2019. He is lodged in district Jail Kaithal. He has filed the present petition with a prayer that he may be granted emergency parole for a period of four weeks to enable him to attend the marriage of younger brother namely Raju, ceremonies for which are fixed on 04.01.2020 and 05.01.2020 at village Rajound District Kaithal. He claims that he had moved an application dated 19.12.2019 (Annexure P-1) and attached there with a copy of the wedding invitation card

(Annexure P-2) but his application is still pending with respondents.

Notice of the petition was issued to the State on 31.12.2019. In response, a short reply by way of affidavit has been filed on behalf of the respondents. The same is taken on record. A copy thereof, has been supplied to the counsel for the petitioner.

In the affidavit, State has submitted that the factum and the dates of marriage of petitioner's brother, Raju have been verified by the SHO of the concerned Police Station, vide his letter dated 31.12.2019 and have been reported to be correct. It has further been submitted that SHO has reported that villagers have no objection in case the petitioner comes out from the jail to attend the marriage.

The State has, however, opposed the prayer for grant of parole on the ground that the petitioner had been released from jail on furlough for 13 days to meet his family members on 09.01.2019 with a direction to surrender at the jail gate on 23.01.2019 but the petitioner absconded from temporary release and surrendered at jail gate late by one day i.e. on 24.01.2019 and for that he was awarded four days earned remission by the Superintendent Jail which was judicially apprised by the District and Sessions Judge, Kaithal, vide order No.874 dated 30.01.2019. It has been further submitted that as the petitioner has violated the parole/furlough rules, he falls under Section 2(2) of the Haryana Good Conduct Prisoners (Temporary Release) Amendment Act, 2015 which is reproduced as under:-

(2) Notwithstanding anything contained in sub-section(1), a convicted hardcore prisoner, who has not been awarded

death penalty, may be entitled for temporary release or furlough only if he has completed his five years imprisonment and has not been awarded any major punishment by the Superintendent of Jail, as judicial appraised by the concerned District and Sessions Judge: Provided that the five year imprisonment period shall not include imprisonment during trial period for more than two years, while counting five years of imprisonment. Provided further that if the prisoner so released under this sub-section violates any condition of temporary release or furlough, he shall be debarred from such release in future.”

Counsel for the parties have been heard. Learned counsel for the petitioner has relied upon the **judgment dated 21.08.2019 passed in CWP No.24333 of 2018 titled as Ashwani Kumar Vs. State of Haryana and others,** to submit that in a similar situation when a convict had surrendered in jail late by one day after completion of furlough period, this Court had held that the same did not amount to any gross misuse of parole as the main reason for parole still subsisted, i.e. to meet the family and to return temporarily to his society.

The matter is squarely covered by the decision of this Court in Ashwani Kumar's case (supra). Following the observations of this Court in the said judgment, this petition is allowed and the petitioner is granted parole for two days i.e. 04.01.2020 and 05.01.2020 subject to the

satisfaction of the District Magistrate concerned, who is further directed to impose such conditions as required to secure the presence of the petitioner in jail after the parole period is over.

(SUVIR SEHGAL)
JUDGE

January 01, 2020
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No