

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

-.-

CRWP-8750-2021 (O&M)

Date of decision : 21.09.2021

Rajesh Malik

.... Petitioner

Vs.

State of Haryana

....Respondents.

**CORAM: HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MRS. JUSTICE ALKA SARIN**

Present: Mr. Prateek Rathee, Advocate, for the petitioner.

Ms. Shruti Jain Goyal, DAG, Haryana.

AJAY TEWARI, J. (ORAL)

By way of this petition, the petitioner has prayed for grant of parole to look after his wife, who requires surgery.

On 15.09.2021, the following order was passed:-

“Notice of motion for 21.09.2021.

*Mr. Vivek Saini, Additional Advocate General, Haryana
accepts notice.*

*It is hoped that the application (P-2) is decided by the
competent authority before the next date.*

To be shown in urgent.”

Today, learned Deputy Advocate General, Haryana has handed-over a photocopy of order dated 18.09.2021 passed by the Superintendent of Prison, Gurugram, which is taken on record and marked as Annexure P-3. By this order the claim of the petitioner has been rejected. On merits it is accepted that the wife of the petitioner has been admitted and advised operation of LAVH (Laparoscopic Assisted Vaginal Hysterectomy) on 22.09.2021 i.e. tomorrow, however, the application has been rejected on account of provisions contained in Note (ii) of Para (1) of the instructions issued by the Financial Commissioner & Principal Secretary to Government

of Haryana, Jail Department, Chandigarh Memo No.38/13/2004-1 JJ(II) dated 16.02.2005, which is quoted herein below:-

(ii) “if any convict is not on bail in all cases pending him, his case for parole/furlough will not be initiated by the concerned Superintendent”

It has been mentioned in the order that in case FIR No. 43/2018, the petitioner is not on regular bail and as per these instructions his case for parole could only be considered if he was on regular bail.

We find no rationale to give such a restrictive interpretation to the expression ‘*not on bail*’. The instructions nowhere enumerate that only convicts who are on regular bail in other cases can be considered for parole. It is not disputed that there are two other cases against the petitioner. In one of which he is on regular bail and in other one he is on interim bail.

Consequently, we have no option but to set aside order dated 18.09.2021 passed by The Superintendent of Prison, Gurugram (Annexure P-3) and direct that the petitioner be released on parole uptill **13.10.2021**.

The petition is disposed off accordingly.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed off.

A copy of this order be given to the learned counsel for the petitioner under the signatures of the Court Secretary of the Bench.

(AJAY TEWARI)
JUDGE

September 21, 2021
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO