

101(PROCEEDINGS THROUGH V.C.)

CRWP-10615-2021

Date of decision: 16.11.2021

PAVITAR SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Sonpreet S. Brar, Advocate,
for the petitioner.

Ms. Monika Jalota, DAG, Punjab,
for the State.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Prayer in this petition is for grant of emergency parole to the petitioner for the reason that the marriage of his sister, namely, Parvinder Kaur is fixed for 23.11.2021 and the other marriage functions would start from 18.11.2021.

Petitioner had submitted a representation dated 28.10.2021 at the time of surrender in pursuance to the order passed by this Court in CRWP No. 10145 of 2021 dated 27.10.2021 (Annexure P-2). The said representation when was not decided, the petitioner had to again approach this Court and an observation was made by this Court that the representation, as submitted by the petitioner, may be considered and a decision taken thereon.

Today, reply from the Superintendent, Central Jail, Ludhiana, dated 16.11.2021 has been received through e-mail, wherein the factum of

the marriage of the sister of the petitioner has been admitted. It has also been admitted that the petitioner has surrendered but his claim for grant of emergency parole for the marriage of his sister has been declined on the ground that he had moved an application for grant of emergency parole whereas he could move an application for temporary release as per Section 3 (1) (A) (a) of the Punjab Good Conduct Prisoner (Temporary Release) Amendment Act, 2015. It has also been asserted that the plea taken in the application for emergency parole cannot be accepted on the basis that only in the case of death of a family member can such a relief be granted.

This stand, which has been taken by the respondents, is not acceptable in the light of the provisions of Section 3 of The Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, which reads as follows:-

“3. Temporary Release of prisoners on certain grounds.- (1) The State Government may, in consultation with the District Magistrate 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 has died; or
- (aa) husband or wife or son or daughter or father or mother or brother or sister or grand-father or grand-mother or grandson or grand-daughter or father-in-law or mother-in-law of the prisoner is seriously ill; or]
- (b) the marriage of the prisoner'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 any other land cultivated by him] and no friend of the prisoner or a member of the prisoner's family is prepared to help him in this behalf in his absence; or

[(cc) a lady prisoner is pregnant and is likely to deliver a child; or

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

[Explanation.-The expression “sufficient cause” includes-

(1) serious damage to life or property of the member of the family caused by any natural calamity; or

(2) critical condition of any member of the family on account of accident; or

(3) delivery of child by the wife of the prisoner.]

[(2) The period for which a prisoner may be released shall be determined by the State Government so as not to exceed-

(a) where the prisoner is to be released on the ground specified in clause (a) of sub-section (1), fifteen days;

(b) where the prisoner is to be released on the ground specified in clause (aa) or clause (b) or clause (c) or clause (d) of sub-section (1), [eight weeks]; and

(c) where the prisoner is to be released on the ground specified in clause (cc) of sub-section (1), one hundred and twenty days (sixty days prior to the date of delivery

of child and sixty days after the date of delivery of child].

[(2-A) The total period of temporary release of the prisoner, excluding the release availed of,-

(i) on the death of a family member of the prisoner; or

(ii) by a female prisoner on account of delivery of child, as the case may be,

shall not exceed sixteen weeks, during a calendar year and shall be availed of on quarterly basis:

Provided that a prisoner, may avail such release for a continuous period of sixteen weeks, during the period falling between the 23rd day of November, 2018 to the 23rd day of November, 2019, as a onetime measure on pro-rata basis, however, subject to the other provisions of the Act:

Provided further that any prisoner, who is on temporary release for a specified period and wants to surrender before the expiry of his temporary release period, he shall be allowed to do so.]

[Provided further that during disasters under the Disaster Management Act, 2005, or epidemics under the Epidemic Diseases Act, 1897, the State Government may, by a special notification published in the Official Gazette, allow temporary release beyond the maximum period of sixteen weeks during a calendar year, and may also waive the condition of temporary release being availed of on quarterly basis.]

(3) The period of release under this Section shall not count towards the total period of the sentence of a prisoner.

(4) The State Government may by notification authorise any officer to exercise its power under this Section in respect of all or any of the grounds specified therein.”

A perusal of the above Section would show that as per clause (d), although an explanation has been given with regard to the sufficient cause but the discretion is always with the competent authority.

It is apparent and admitted fact that the marriage of the sister of the petitioner is fixed for 23.11.2021. It has been pleaded that he is the only brother of four sisters and the father of the petitioner also remains ill as he is facing various heart related issues. The responsibility of the marriage of the sister of the petitioner, therefore, has been fallen on his shoulders, which factum has not been specifically denied by the respondents in their reply.

Keeping in view these circumstances, we accept the prayer made by the petitioner and order release of the petitioner on parole for a period of nine days from 17.11.2021 to 25.11.2021.

Petition stands disposed of accordingly.

**(AUGUSTINE GEORGE MASIH)
JUDGE**

**(SANDEEP MOUDGIL)
JUDGE**

November 16, 2021

pj

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No