

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

CRWP No. 11384 of 2021
Date of decision: 13.12.2021

207

Sabir

....Petitioner(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Balraj Gujjar, Advocate,
for the petitioner.

Mr. Vivek Chauhan, Addl. A.G., Haryana.

G.S.SANDHAWALIA, J. (Oral)

The present petition has been filed under Article 226 of the Constitution of India read with Section 3(1)(c) of the Haryana Good Conduct Prisoner (Temporary Release) Act, 1988. The relief claimed is for release of the petitioner on parole for a period of 4 weeks on emergency ground for getting the treatment of his wife namely Sanjida done.

It is not disputed that the petitioner has been convicted for a period of 20 years in FIR No. 317 dated 17.05.2018 under Sections 376-D, 328 and 506 IPC, P.S. Sector 55, Faridabad by the Additional Sessions Judge, Fast Track Court, Faridabad. Criminal appeal preferred by him i.e. CRA-D-726 of 2019 is pending adjudication before this Court. It is also relevant to notice that the petitioner's application for suspension of sentence i.e. Crl. Misc. No. 39655 of 2019 was dismissed on 09.08.2021, which would be clear from the perusal of the file of the said case.

The prayer now made is on account of his wife being seriously ill and being taken to Civil Hospital, Palwal on 18.11.2021 (Annexure P-1) wherein, surgery has also been advised. It is in such circumstances, the present

petition has been filed on account of the fact that he is the sole earning hand of the family and his release is warranted in the peculiar facts and circumstances.

State has, as such, relied upon the report of the SHO, P.S. Utawar, Palwal that there are other family members to get the petitioner's wife namely Sanjida treated, while also referring to the fact that his brother and other family members of the convict are available. It has also been stated that Dr. Suresh Kumar, SMO, MS. Surgeon, Government Hospital, Palwal has given in writing that it is a routine regular check up case and there is no need of surgery. Therefore, counsel for the State has submitted that since the petitioner has been convicted for 20 years, he should not be released and he is likely to absent thereafter.

A perusal of the medical report, as such, would tend to show that the wife of the petitioner is suffering from some problem in her uterus and which appears mild bulky in size as per the sonography report and as per the OPD card also, there is a reference that surgical intervention may be required. A perusal of the report which has now been produced by the State also would show that there is bleeding also that has taken place, though the doctor has opined that the patient can manage conservatively with the help of long term medication but after failure of medication or conservative treatment, patient may opt for surgery, as a treatment modality.

In such circumstances, this Court is of the opinion that the petitioner's wife requires the petitioner to be present by her side to get over the medical problem from which she is suffering presently. The petitioner has already undergone 3 years, 2 months and 19 days of actual sentence as on 09.08.2021, which was noticed by the Co-ordinate Bench while dismissing the

application for suspension of sentence. Therefore, the sentence is not likely to be suspended in near future on account of the said fact. In such circumstances, purpose of parole would be well served in case he is released for a period of 4 weeks.

Accordingly, the petition is allowed.

The petitioner be released on parole for a period of 4 weeks from the date of release on furnishing of adequate security to the satisfaction of CJM/Illaq Magistrate, Faridabad.

(G.S. SANDHAWALIA)
JUDGE

13.12.2021
shivani

(VIKAS SURI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No