

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

CRWP No. 10693 of 2022
Date of Decision: 05.12.2022

Ramesh Yadav @ Tinni

.....Petitioner(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Amindra Pratap Singh, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

G.S.SANDHAWALIA, J. (Oral)

Prayer in the present petition is for grant of temporary release/parole to the petitioner for a period of 4 weeks in FIR No. 34 dated 13.01.2015 under Sections 302 and 34 IPC and under Section 25 of the Arms Act registered at P.S. Sadar, Gurugram. The same is on the ground that medical arrangements have to be made to get the wife operated for Abdominal Hysterectomy with Bilateral Salpingectomy as per the advice of doctor (Annexure P-4), particularly when his aged mother and minor sons are unable to manage the surgery of his wife.

The pleaded case of the petitioner is that he was sentenced for life imprisonment on 01.04.2022 by the Additional Sessions Judge, Gurugram and his appeal stands admitted for regular hearing. On account of his wife requiring the surgery since the sons of the petitioner are minor and the mother is old, representation has been made by the wife to the Deputy Commissioner, Gurugram on 18.10.2022 (Annexure P-5). Resultantly, parole is sought under Section 3(1)(a) of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 on the ground that the member of

the family of the petitioner is seriously ill.

A perusal of the provisions of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 would go on to show that under Section 5(1), the competent authority is empowered to grant emergency parole to a convicted prisoner subject to such conditions and procedure as specified under Sections 11 and 12. One of the grounds as such is that a member of the convicted prisoner's family is in serious condition.

It is not disputed that as per the reply of the State, order dated 26.11.2022 (Annexure R-1) has been passed by Superintendent of Prison, Gurugram rejecting the claim of the petitioner after taking into consideration the said provisions and after verifying the facts. The reason given is that the wife is not admitted in hospital and has not been advised admission for needful surgery after pre-anesthesia check up. The competent authority being Superintendent of Prison also relied upon the report dated 25.11.2022 submitted by the Board of Doctors constituted by the Civil Surgeon, which showed that the patient is not admitted and no such report or any medication has been attached with the documents except ultrasound which suggests or justifies that the patient is seriously ill. Resultantly the claim is rejected.

Keeping in view the above, we are of the considered opinion that the order passed by the Superintendent of Prison, Gurugram is not liable to be sustained specially keeping in view the fact that the same is based upon the report of the Medical Board which itself relied upon medical record which has been placed on record. The said report would go on to show that it is based on the record as the patient was not examined and the same reads thus:-

“1. As The patient is not brought before The board and opinion is given only on the basis of record received.

2. Patient vitals & investigation are not

present on record of Ektaa Hospital.

3. *As per the record of Ektaa Hospital, presently The patient is not admitted and also no relevant investigation reports are not attached with the record received (Except; the ultrasound report).*

4. *As the Patient is not admitted and no such report or any medication attached with the documents (Except to ultrasound) which suggest or Justifies that The patient is seriously ill.*

5. *There is no Bleeding per vagina on the Doctors prescription only the complains of bleeding are documents but the Doctors examination does not mention any such finding.*

6. *Such a small fibroid in ultra sound report is not suggested for total hysterectomy until there is heavy bleeding or any emergency condition.*

7. *The date of surgery mentioned in the documents is 28 Nov 2023 which is elective surgery which does not show any emergency.”*

The State has also appended the request of Ektaa Hospital to the Superintendent, District Prisons wherein, it was mentioned that Mrs. Asha W/o Ramesh is under treatment and though not admitted but she is seriously ill and is being managed on medication. The surgery has been fixed for 08.12.2022 and the ultrasound report dated 11.10.2022 was also appended, which goes on to show that there is uterine fibroid, cervicitis and bulky right ovary present. Similarly, the report of the doctor dated 12.10.2022 would go on to show that there is associated pain and there is passage of clots and there is bleeding for the last 2-3 months which is heavy in nature and there is pain in lower abdomen. It also talks about bulky cervicitis fibroid and bulky right ovary. In such circumstances, surgery has been suggested.

apparently all the record was not produced before the Board as there is contradiction as such regarding the findings recorded by the Board whereas there is a specific document as such which goes on to show that the patient is having heavy bleeding. It is not merely because the patient is not admitted in the hospital at the present point of time, that it would not amount to a case of emergency. It is well known that the Hysterectomy is an elective procedure and it is on account of the level of difficulties which the patient may face and which apparently the wife of the petitioner is facing as such for the last two months.

In such circumstances, the reasoning given by Superintendent (Jails) is not justified since the opinion of the Medical Board also does not seem to be apparently correct. Resultantly, the present petition is allowed. Order dated 26.11.2022 (Annexure R-1) passed by the Superintendent of Prisons, Gurugram is quashed. A direction is issued to release the petitioner on parole for a period of 4 weeks subject to the satisfaction of the competent authority, keeping in view the reasons recorded above.

(G.S. SANDHAWALIA)
JUDGE

05.12.2022
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No