

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

CRWP-10773-2022
Date of Decision: 21.11.2022

Dharampal @ Jagar

.....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. Sahil Chaudhary, Advocate,
for the petitioner.

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

G.S.SANDHAWALIA, J. (Oral)

The present petition has been filed for grant of 3 weeks' parole to the petitioner under Section 3(1)(2) of The Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 on account of the marriage of his daughter, which is stated to be fixed for 24th to 28th November, 2022 (in short 'the Act').

It has been averred that the petitioner has been convicted by the Additional Sessions Judge, Fatehabad on 16.03.2022 in FIR No. 126 dated 01.06.2018 for the offences under Sections 148, 149, 285, 364, 302, 201, 452 IPC and Sections 25, 54 and 59 of the Arms Act.

The appeal is stated to be pending before this Court. Averments have been made that the marriage of the daughter has been fixed with one Yogesh for 24.11.2022 to 28.11.2022 and in such circumstances, the presence of the father is required.

In the reply filed by the Deputy Superintendent, Central Jail-2, Hisar, it has been averred that the SHO, P.S. Khajuwala, Bikaner has verified

the fact that the marriage is taking place in village 4 KYD and there is a

positive report as such. However, on account of a legal bar that he has not completed his one year sentence after conviction as provided under Section 3(3) of the Act, rejection order has been passed by the Superintendent, Central Jail, Hisar on 19.11.2022 (Annexure R-4). The impugned order, however, shows that the benefit of “custody parole” as per Section 6(4)(5)(6) of the Act has been granted, provided an adult member of the family applies.

However, in the present case, facts and circumstances are peculiar in as much admittedly the petitioner belongs to Bikaner, Rajasthan and, therefore, as per Section 6(6), the “custody parole” is to be granted only for 6 hours for one event which would also include the marriage of the children. Section 6 of the Act reads thus:-

“6. (1) The competent authority shall grant custody parole to a convicted prisoner subject to such conditions and procedure as specified under sections 11 and 12.

(2) Notwithstanding anything contained in sections 3, 4 and 5, no hardcore convicted prisoner shall be entitled to be released on emergency parole or regular parole or furlough:

Provided that a hardcore convicted prisoner may be granted custody parole for attending funeral of his family members or marriage of his children or siblings.

(3) Notwithstanding anything contained in sub-section (1), a hardcore convicted prisoner, who has not been awarded death penalty or life imprisonment till natural life and has completed five years of his sentence (including maximum two years under trial period), without committing any major jail offence or any cognizable offence during the last five years, shall be entitled for emergency parole or regular parole or furlough at par with convicted prisoners. Such period of

five years shall be counted from the date of his latest offence or act which falls under the category of hardcore convicted prisoner:

Provided that a hardcore convicted prisoner who has been sentenced for imprisonment till natural life shall be eligible for emergency parole or regular parole at par with convicted prisoners only after completion of seven years of imprisonment after conviction:

Provided further that if the hardcore convicted prisoner so released temporarily violates any condition of parole or furlough or commits any cognizable offence, he shall be debarred from such release for next three years.

(4) Convicted prisoner including hardcore convicted prisoner may be granted custody parole without taking into account his period of completion of sentence for attending funeral of his family member or marriage of his children or siblings.

(5) The competent authority shall verify the facts for granting custody parole through in-charge of the police station where the prisoner wants to avail the custody parole or through a jail officer not below the rank of Assistant Superintendent Jail.

(6) Custody parole shall not be granted for more than six hours for one event excluding the journey time and the police escort guard for the custody parole shall be provided by the Superintendent of Police or the Deputy Commissioner of Police of the district within whose jurisdiction the jail is situated. The period of custody parole shall be treated as period spent in jail."

Keeping in view the above, we are of the considered opinion that on account of the fact that the presence of the father is of paramount consideration in the family as such on account of the rituals as such which are

dated 19.11.2022 would show that he has undergone 2 years, 10 months and 18 days and has not availed parole since the date of his custody which is shown as 07.06.2018, it would be in the interest of justice if he is released on custody parole from 27.11.2022 from 8.00 a.m. till 29.11.2022 5.00 p.m. He will thus be escorted under armed police custody to visit his village for the purposes of attending the marriage of his daughter.

Keeping in view the fact that it is beyond the prescribed period and outside the jurisdiction of Haryana, the petitioner shall pay the costs of the armed police custody for the said period which has been granted. The Deputy Superintendent, Central Jail-II, Hisar shall ensure compliance of the said order.

The petition stands allowed in the above terms.

(G.S. SANDHAWALIA)
JUDGE

21.11.2022
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No