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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-11002-2022
Date of Decision : 23.11.2022

Sabdil Singh

..... Petitioner

Versus

The State of Haryana and others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present : Mr. Ritesh Tomar, Advocate
for the petitioner.

VIKRAM AGGARWAL, J

Petitioner Sabdil Singh has filed this writ petition, praying for grant of emergency parole/furlough for four weeks for attending the marriage of his real nephew (real brother's son) namely Jaspinder Singh which is scheduled to be held on 28.11.2022.

Vide judgment of conviction and order of sentence dated 08.10.2021, the petitioner was convicted and sentenced to undergo imprisonment for life in case FIR No.8 dated 09.12.2003, registered under Sections 120-B, 302, 506 IPC, at Police Station SCB, CBI, Chandigarh.

Appeal against the said judgment is pending adjudication before this Court, having been admitted on 15.12.2021.

As per the petitioner, he has already undergone 9½ years of

sentence as under trial and total period of about 12 years without remission. It is his case that his conduct has been satisfactory and no other case has been registered or is pending against him. The marriage of his nephew Jaspinder Singh is scheduled to be solemnized on 28.11.2022 at the residence of the petitioner in District Faridkot, Punjab and the petitioner has to attend the same for conducting various rites and ceremonies, being the eldest in the family. A representation dated 14.11.2022 was moved to the Superintendent, Central Jail, Ambala but no decision has been taken.

In support of his contentions, learned counsel has placed reliance upon the judgment of Hon'ble Supreme Court in *Asfaq vs. State of Rajasthan and others in Civil Appeal No.10464 of 2017, decided on 11.09.2017*, the judgments of Division Bench of this Court in *Umed vs. State of Haryana and others in CRWP-943-2022, decided on 10.02.2022* and *Kuldeep Singh vs. State of Punjab and others in Crl. Writ Petition No.1317 of 2017, decided on 17.11.2017* and the judgments of Single Bench of this Court in *Ganga Lal vs. State of Haryana in CRM-M-31731-M of 1998, decided on 29.04.1999*, *Mahender vs. State of Haryana and others in Criminal Misc.No.47173-M of 2002, decided on 23.11.2002* and *Nishabar Singh vs. State of Haryana and others in Criminal Writ Petition No.1977 of 2013, decided on 29.11.2013*.

We have heard learned counsel for the petitioner.

It has been submitted that in view of the fact that the petitioner is the eldest in the family, his prayer deserves to be allowed. Learned counsel has referred to the provisions of the Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 (hereinafter referred to as 'the Act') and the Haryana Good Conduct Prisoners (Temporary Release) Rules,

2007 (hereinafter referred to as 'the Rules') and has contended that in view of the same, the petitioner deserves to be released on parole for a period of four weeks.

Having heard learned counsel, we do not find any reason to accept the prayer of the petitioner. The ground on which parole is being sought is the marriage of the nephew (brother's son) of the petitioner. Section 2(b) of the Act which defines the members of the prisoner's family does not include brother's son meaning thereby that the provisions of Section 3(1) of the Act would not be applicable. Even the provisions contained in Rule 8 of the Rules are not applicable as the same apply when the prisoner's brother is not alive. In the present case, it is not the case of the petitioner that his brother is not alive. Since the petitioner is not covered under any of the provisions either under the Act or the Rules, we do not find any reason to accept the prayer of the petitioner.

We have gone through the judgments relied upon by learned counsel for the petitioner. In *Asfaq's case* (supra), the Hon'ble Apex Court laid down the distinction between parole and furlough. While dealing with the request of the appellant therein, the Hon'ble Apex Court held that amongst the various grounds on which parole can be granted, the most important ground that stands out is that the prisoners should be allowed to maintain family and social ties. The appellant therein had been convicted under TADA and had been sentenced to undergo imprisonment for life. He had undergone sentence of more than 10 years when the matter was taken up by the Hon'ble Supreme Court and was seeking parole for 20 days. The Authorities had rejected the request on the ground that if the appellant was released on parole it may lead to untoward incidents. The Hon'ble Apex

Court found the reasons given by the Authorities to be reasonable and rejected the request of the appellant for the grant of parole. There is absolutely no doubt that parole should be granted where such reasons exist as has been held by the Hon'ble Apex Court. In the present case, however, apart from the matter not being covered under the provisions of the Act or the Rules, we find that the ground on which parole is being sought is not a reason which justifies the release of the petitioner on parole in view of the fact that the brother of the petitioner is there to perform the various rituals. The judgment of the Hon'ble Apex Court does not, therefore, come to the aid of the petitioner. It has also to be borne in mind that each case has to be decided on its own facts and there can be no straitjacket formula in such matters. For the same reasons, the judgment in Ganga Lal's case (supra) would not be applicable.

In Umed's case (supra), it was held by a Division Bench of this Court that even though the petitioner therein had not completed one year of imprisonment after conviction and as such his claim for the grant of parole was barred as per Rule 4(1) of the Rules, it would not supersede the substantive provisions of the Act. The Division Bench, therefore, ordered the release of the petitioner therein on parole to enable him to attend the marriage of his niece and nephew. In our opinion, the view taken by the Division Bench was on account of being satisfied that the petitioner therein deserved to be granted parole which is not the case here. As mentioned earlier, each case has to be decided on its own facts. Considering the nature and manner of the offence in the present case as also its peculiar facts, we have not found to be a case where parole should be granted. For the same reasons, the judgments in Mahender, Kuldeep Singh and Nishabar

Singh's cases (supra) where the petitioners had been released on parole to enable them to attend the marriage of their nephew would not come to the aid of the petitioner.

In view of the aforesaid, we do not find any merit in the present writ petition and the same is, therefore, dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

23.11.2022
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No