

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 05.12.2022

1. CRWP-11226-2022 (O&M)

Prem Singh

... *Petitioner*

V/s.

State of Haryana and others

... *Respondents*

2. CRWP-11228-2022 (O&M)

Prem Singh

... *Petitioner*

V/s.

State of Haryana and others

... *Respondents*

3. CRWP-11229-2022 (O&M)

Prem Singh

... *Petitioner*

V/s.

State of Haryana and others

... *Respondents*

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Mohit Garg, Advocate
for the petitioner(s).
Mr. Bhupender Singh, DAG Haryana.

DEEPAK MANCHANDA, J.(Oral)

By this common order, this Court proposes to dispose of all the
above mentioned petitions since the facts of the petitions are common.

The instant petition i.e. CRWP-11226-2022 has been filed seeking issuance of direction for the respondent authorities to grant emergency Parole of three weeks i.e. from 01.12.2022 to 21.12.2022 as per The Haryana Good Conduct Prisoners (Temporary Release) Act, 2002 to attend the marriage of daughter of the petitioner which is scheduled to be fixed on 08.12.2022.

The brief facts emanated from the pleadings are that the petitioner had been convicted vide judgment dated 24.05.2019 for a period of one year under Section 138 of the Negotiable Instruments Act and the same had been challenged by filing the appeal No. 322 of 2019, which was dismissed vide order dated 02.11.2022 and the petitioner has been facing the sentence since then. The petitioner made a representation dated 27.11.2022 to respondent No. 3 i.e. Superintendent of District Jail, Gurgaon with the prayer for granting parole to attend and perform ceremonies of the marriage of his daughter and when authorities did not consider the application, being aggrieved by the said action, the present petition has been filed. After issuance of notice of motion vide order dated 30.11.2022, the State counsel sought time to file the status report and the matter was adjourned for today. As per reply filed by Sh. Dinesh Kumar, Deputy Superintendent, District Jail, Gurugram dated 04.12.2022, it is submitted that the petitioner is not entitled for emergency/regular parole as the petitioner has not completed one year of sentence after conviction as per Section 3 (i) of The Haryana Good Conduct Prisoners (Temporary Release) Act, 2002. Though the factum of marriage of petitioner's daughter, which is

scheduled to be held on 08.12.2022 has not been denied. The reference to the same has been made in Para 5 of the reply as well as the verification dated 02.12.2022 done by the Police Authorities vide R1 annexed with the reply.

I have heard learned counsel for the parties and have gone through the record.

Learned counsel for the petitioner contends that since the marriage of daughter of the petitioner is scheduled to be held on 08.12.2022, the authorities have not considered the representation dated 27.11.2022 made by the petitioner and same is pending for consideration.

As per reply filed by the respondent-State, no such stand with regard to misconduct by the petitioner has been taken by the Jail Authorities, further with regard to the representation dated 27.11.2022 submitted by the petitioner, the objection for non-submission of representation by the petitioner has been raised by the State Authority.

The stand taken by the respondent-authorities for opposing the parole is only for the reason of apprehension of breach of peace whereas there is no such condition under the Act and in respect of numerous judgments of this Court that apprehension of breach of peace by a prisoner is not a ground to decline the request for parole. Accordingly the petitioner cannot be denied the relief of parole on the ground of apprehension of breach of peace.

No doubt the petitioner is a convict and has been sentenced for a period of one year and thereafter challenged the conviction order by filing appeal which was dismissed and thereafter the petitioner never challenged

the said order dated 02.11.2022 passed by the Additional Sessions Judge, Gurugram and now is behind the bars since then.

Although the petitioner is not entitled to get parole under the parole rules but the aura of Article 21 of the Constitution of India would remove any such restrictions if the facts and circumstances justify such parole. A prisoner cannot be deprived of attending a significantly important family event because the family members and the immediate relatives, apart from friends and the neighbors, usually take care of the family members of a person under incarceration. The prisoner also longs for their co-operation, support and even financial help. In return, such persons would also expect the prisoner to reciprocate by attending their sacrosanct family functions, fully aware that such presence is fraught with the risk of social boycott or dejection.

In view of facts and circumstances of the present case, the present petition is allowed and respondents are directed to release the petitioner on parole for a period of ten days w.e.f. 07.12.2022 on furnishing of bail bonds to the satisfaction of competent authority. On expiry of period of parole of ten days from the date of his release, the petitioner shall surrender before the Jail Authorities. However the parole shall be subject to the following terms and conditions:-

- 1. The petitioner shall furnish a contact number on which he can be contacted if required. After his release, he shall inform the telephone number to the SHO of the Police Station concerned.*
- 2. Immediately on expiry of period, the petitioner shall surrender himself before the Jail Authorities concerned.*

3. *The period of parole shall be counted from the day when the petitioner is released from jail.*

Petitions stand disposed off.

(DEEPAK MANCHANDA)
JUDGE

05.12.2022
seema

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes /No</i>