

CRM-W-963-2023 in/and
CRWP-6097-2023

[101] IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : 13.07.2023

Sukhbir Singh @ Kala

...Petitioner

versus

State of Haryana and others

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia
Hon'ble Mr. Justice Lalit Batra

Present : Mr. Randeep S. Dhull, Advocate for the petitioner.
Mr. Surender Singh Pannu, Addl. A.G., Haryana.

B.S. Walia, J. (Oral)

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Notice of the application to the counsel for the non-applicants / respondents.

Mr. Surender Singh Pannu, learned Addl. AG, Haryana, accepts notice on behalf of the non-applicants / respondents and states that he has no objection to the prayer for preponment.

Accordingly, in view of the statement of learned Addl. AG, Haryana, the application is *allowed*. Date of hearing of the main case is preponed from 24.07.2023 to today itself.

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[1] Learned counsel has produced copy of the discharge summary of the petitioner's father from the PGIMER, Chandigarh (hereinafter

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the advice at discharge is as under:-

“ ADVICE at DISCHARGE

- *Maintain Personal Hygiene*
- *High Protein Diet*
- *Chest & Limb Physiotherapy*
- *Drink plenty of fluids*
- *Bagota case :-*
Irrigate the Bagota daily with Normal saline in a local Hospital.
- *Clean the wound and its surrounding with Normal saline.*
- *Daily Dressing at local hospital.”*

[2] A perusal of the same reveals that apart from the other directions, the petitioner’s father is to get daily dressing done at local hospital and as matter of follow-up, his next visit to the PGI has been scheduled for 15.07.2023 with the observation that in case of any emergency such as high grade fever, excessive vomiting etc. patient is to report on second floor of Nehru Block Emergency of the PGI, as also to follow-up in the Cardio-OPD in Cardiac Centre.

[3] Learned counsel for the petitioner contends that although the petitioner has three sisters, they are residing at their matrimonial homes in places other than in Village Amargarh, District Karnal. Likewise, although the petitioner has a elder brother, who resides in Village Amargarh, District Karnal, yet he does not take care of their ailing father, therefore, it is imperative that for the proper care, treatment and medical follow-up of the petitioner’s father for his full recovery, the petitioner be released on parole especially in view of the fact that the petitioner’s father has undergone two surgeries on 23.06.2023 and 29.06.2023 and also

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emergency ward only on 10.07.2023.

[4] Learned counsel for the petitioner contends that keeping in view the nature of the surgery performed on the petitioner's father, the old age of the petitioner's father and the weather as prevailing during these days with flood like situation, it would not be possible for the petitioner's father to go to a local hospital and get himself treated properly, thereby he would run the risk of infection which would be disastrous.

[5] Learned counsel for the petitioner further contends that the petitioner has already been released on parole on 01.07.2022 for 04 weeks and surrendered on the due date i.e. 30.07.2022. Likewise, he was released on 05 weeks parole on 16.12.2022 and surrendered on the due date i.e. on 21.01.2023, therefore, the same also points towards the petitioner abiding with the rules and regulations.

[6] *Per contra*, learned Addl. AG, Haryana, contends that in view of the petitioner's father having been discharged besides the petitioner having siblings i.e. three sisters and one brother, no case is made out for grant of temporary release of the petitioner especially in view of the petitioner's father not being in critical / serious condition.

[7] We have considered the submissions of learned counsel for the parties.

[8] Admittedly, the petitioner submitted an application (Annexure P-1) for temporary emergency parole on 09.06.2023 to enable him to get his father treated from the PGI along with the card of the PGI, showing the medical condition of the petitioner's father. However, when no action was taken on the matter, the petitioner invoked the jurisdiction

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of this Court and the matter was taken-up for hearing on 20.06.2023. On said date, notice of motion was issued for 27.06.2023. However, on 27.06.2023, the matter was ordered to be listed for hearing along with CRWP No.4600 of 2023 in case titled as 'Sukhbir Singh @ KalaversusState of Haryana and others' on 24.07.2023, whereafter on an application for preponement moved by the petitioner, the matter was taken up on 05.07.2023 and was adjourned to 06.07.2023, to enable the learned Addl. AG, Haryana, to obtain instructions and to place orders, if any, passed on the application for emergency parole to enable the petitioner to get his ailing father, who is admitted in the PGI, properly treated. On 06.07.2023, reply was filed by the learned Addl. AG, Haryana, whereupon learned counsel for the petitioner requested for time to go over the same and to address arguments.

[9] Admittedly, the petitioner's father was admitted in PGI as a case of acute intestinal obstruction qua which emergency laparolency with resection and anastomosis of structure bearing segment was done on 23.06.2023. Thereafter, another surgery was conducted on the petitioner's father on 29.06.2023. However, the petitioner's father was discharged on 10.07.2023 while recording that although he was hemodynamically stable but he was required to undergo daily dressing at a local hospital and to report at the PGI, Chandigarh for SOS review in case of any emergency such as high grade fever, excessive vomiting, constipation etc.

[10] The only ground taken up in the reply by attaching Annexure R-III, dated 30.06.2023 is that the physical condition of the petitioner's father is not shown to be critical/serious. To our mind having regard to

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the factual position noted above, reflects the indifferent attitude of the authorities as also of due care and attention not having been paid to the condition of the petitioner's father, who was admitted in the PGI and who was operated upon twice on 23.06.2023 and 29.06.2023 for acute intestinal obstruction. The petitioner's father is 78 years old. No doubt, he has been discharged on 10.07.2023 and has one more son and three daughters yet the daughters are stated to be married and residing in their matrimonial home in a village other than village Amargarh, District Karnal i.e. where the petitioner's father resides and further although the learned counsel for the petitioner states that the petitioner's elder brother is residing in village Amargarh, District Karnal, yet he is not on visiting terms with his father and does not take care of his father and there is no other person in the family to look after his father and get proper care and treatment made available to his father.

[11] It has been further mentioned in Annexure R-III that the report received from the PGI, had not confirmed the petitioner's father serious illness nor had been countersigned by the concerned Civil Surgeon. To our mind, it was incumbent on the authorities to verify the factual position since it was not open to the petitioner who was behind bars to go to the PGI authorities or to the Civil Surgeon to get the report countersigned. Accordingly, we find that the authorities ought to have been sensitive to the plight of the petitioner's father and taken all steps to expeditiously and effectively deal with the application for parole.

[12] In the light of the position noted above, we are of the view that the claim of the petitioner be accepted and the petitioner be released on emergency parole for a period of 10 days, as sufficient ground has

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been made out to show the serious condition of the petitioner’s father, non availability of other proper means of providing treatment to the petitioner’s father and the weather conditions prevailing, subject to the petitioner furnishing surety bonds/complying with the conditions as may be imposed by the competent authority.

[13] Copy of this order be forwarded to the Director General (Prisons), Haryana, to ensure that due sensitivity is shown to genuine cases in future.

(B.S. Walia)
Judge

(Lalit Batra)
Judge

13.07.2023
'Rajneesh'

Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No