

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

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2023:PHHC:146896-DB
CRWP-10048-2023
Date of Decision: 20.11.2023

Rakesh @ Rinku

.....Petitioner(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present: Mr. Prateek Rathee, Advocate,
and Mr. Harsh Rana, Advocate, for the petitioner.

Mr. Sharan Sethi, Addl. A.G., Haryana.

G.S.SANDHAWALIA, J. (Oral)

1. Prayer made in the present criminal writ petition filed under Article 226 of the Constitution of India is for grant of parole to the petitioner for a period of ten weeks under Section 3(2) of Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 to attend his wedding which is stated to be fixed for 23.11.2023.

2. Before we can go into the merits of the case, we are firstly of the considered opinion that the authorities have not decided the said issue though replies have been filed herein. Specific averment as such was made that an application had been filed for grant of parole (Annexure P-3) to respondent No.4-Superintendent, District Jail, Nuh, Haryana. The State has taken specific objection as such that no application has been submitted in the office of the said respondent for the necessary relief which is now claimed, apart from opposing it on the grounds that the petitioner is a hard core convict and is involved in using a mobile phone and FIR No. 544 dated 04.12.2021 under Section 120 IPC and under Section 42-A of the Prisons Act has also been registered against him in this regard. No replication has been filed to counter

the said fact.

3. Keeping in view the fact that it is for the authorities firstly to take a call on the eligibility as such, we are of the considered opinion that in the absence of the representation not being moved before the competent authority, it is not for us to go into the issue at the first instance in the absence of any decision taken on the issue of grant of parole.

4. Faced with this situation, counsel for the petitioner submits that the present criminal writ petition be treated as a representation before the authorities. Counsel for the State has no objection to the said course of action.

5. Accordingly, the present petition is disposed of with a direction to the respondent to take a decision by treating the petition as a representation within a period of 4 weeks from the date of receipt of certified copy of the order.

(G.S. SANDHAWALIA)
JUDGE

20.11.2023
shivani

(LAPITA BANERJI)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No