

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

SR. No.109

CRWP-3621-2024
Date of decision:25.04.2024

Nirja and another

...Petitioners

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON’BLE MR. JUSTICE N.S. SHEKHAWAT

Present: Mr. Satish Chaudhary, Advocate for the petitioners.
Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S. SHEKHAWAT, J.

1. The petitioners have filed the present petition under Article 226 of the Constitution of India with a prayer to direct the respondents to release the petitioners for grant of parole for four weeks to attend the marriage of Muskan (grand daughter of petitioner No.1 and daughter of petitioner No.2), which is scheduled to be held on 28.04.2024.
3. Learned counsel for the petitioners contends that the petitioners were convicted under Sections 323/324/148/149/364 IPC and sentenced to undergo RI for a period of 03 years’ and in appeal filed before this Court, their sentence has been reduced to a period of 02 years from 03 years vide order dated 20.02.2010 passed by this Court. The petitioners were re-admitted in the jail on 06.06.2023 by the order of Chief Judicial Magistrate, Nuh to undergo remaining period of their sentence. Learned counsel further submits that the marriage of Muskan, who is stated to be grand daughter of

petitioner No.1 and daughter of petitioner No.2 is scheduled to be held on 28.04.2024 at Bichhor, Tehsil Punhana, District Nuh. Learned counsel further submits that as per the provisions of the Haryana Good Conduct Prisoners (Temporary Release) Act 2022 (hereinafter referred to as 'the Act'), the petitioners are entitled to avail regular parole. Learned counsel has also placed on record marriage card (Annexure P-2), in support of his submissions.

4. Learned State counsel has admitted the facts regarding the marriage of Muskan, who is stated to be grand-daughter of petitioner No.1 and daughter of petitioner No.2. He also submits that he has no objection, if, petitioner No.1 is released on parole, to enable him to attend the marriage of Muskan, which is fixed for 28.04.2024. However, he has opposed the prayer made by petitioner No.2 on the ground that he is involved in many other cases.

This Court has heard the learned counsel for the parties and perused the case file.

7. It is apt to refer to Section 3 of the Act, which reads as under:-

3. Temporary release of convicted prisoner on regular parole on certain conditions-(1) *The Competent Authority shall grant regular parole to a convicted prisoner subject to such conditions and procedure as specified under Sections 11 and 12.*

*(2) The period for which a convicted prisoner may be released under this Section shall be ten weeks in a calendar year cumulatively and **the convicted prisoner may avail it in two parts**; Provided that in case of delivery of a female convicted prisoner, the period of release under this section shall be six months, beginning from one month prior to the expected date of delivery as certified by the Medical Officer of the jail.*

(3) Convicted prisoner who has not completed one year of sentence after conviction shall not be eligible for regular parole.

Provided that the restriction shall not be imposed on old aged convicted prisoner of seventy years or above in case of male and sixty five years or above in case of female.

(4) The report of the Deputy Commissioner of Police or the Superintendent of Police, as the case may be and recommendations by the District Magistrate shall be submitted to the competent authority within time limit as specified under this Act, for temporary release of a convicted prisoner on regular parole.

(5) The period of release under this Section shall not count towards the actual sentence of a prisoner. No ordinary remission shall be granted for this period.

8. As per Section 3 of the Act, the convicted prisoner is entitled to be released on parole for a period of 10 weeks in a Calender year cumulatively and the convicted prisoner may avail it in two parts. The petitioners have filed the present petition to attend the marriage ceremony of Muskan, which is scheduled to be held on 28.04.2024 and the said fact has been verified by the learned State counsel. Further, there is no substance in the plea raised on behalf of the State of Haryana that petitioner No.1 is “hard core convicted prisoner” and is not entitled to be released on parole by this Court. As per custody certificate(s), petitioner No.1 is not involved in any other case, whereas, petitioner No.2 has been involved in 09 other cases, however, out of 09 cases, he is facing prosecution in 04 cases, convicted in 02 cases and acquitted in 03 cases.

10. Thus, in view of the above discussion, the present petition is partly allowed. Petitioner No.1 is ordered to be released on parole for a

period of 14 days subject to his furnishing necessary surety bonds to the satisfaction of the Superintendent of Prison concerned, where, he is lodged. Petitioner No.1 shall be entitled to step out of the prison at 05.00 PM on 26.04.2024 and shall surrender at jail gate at 05.00 p.m. on 10.05.2024. As regards petitioner No.2, he may be taken to the venue of marriage ceremony at 10.00 AM on 28.04.2024 to attend the marriage ceremony of his daughter in custody and shall be lodged in jail back at 05.00 PM on the same day itself.

25.04.2024
mks

(N.S. SHEKHAWAT)
JUDGE

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO