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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRWP-6292-2024**

Date of Decision:- 10.07.2024

Pawan Kumar

....Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTIPresent:- Mr. Hoshiar Singh Jaswal, Advocate
for the petitioner.

Mr. Rupinder Singh Jhand, Addl. AG Haryana.

AMARJOT BHATTI, J.

1. Matter was listed for orders. However, learned counsel for the petitioner filed application under Section 482 Cr.P.C. for placing on record amended writ petition. It is stated that Section 3 has been wrongly mentioned in place of Section 5 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022, in the head note and prayer clause of writ petition. It is thus, prayed that present application be allowed and amended petition be taken on record.

2. No serious objection has been raised by learned State counsel.

3. In view of the averments mentioned in the application, the same is allowed. Amended writ petition filed along with the application is taken on record, subject to just exceptions.

4. Petitioner Pawan Kumar has filed petition under Articles 226/227 of the Constitution of India for grant of Emergency Parole to him

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for 15 days under Section 5 of the Haryana Good Conduct Prisoners (Temporary Release) Act, 2022, in order to perform last rites/rasam pagri programme, scheduled to be performed on 11.07.2024.

5. Learned counsel for the petitioner submitted that petitioner, who was involved in FIR No. 184 dated 25.10.2004, registered under Section 302 read with Section 34 of IPC at Police Station Kanina, District Mahendergarh was convicted vide judgment dated 22.04.2006 and sentenced to undergo Rigorous Imprisonment for Life under aforesaid Section along with fine of Rs. 5000/- and in default thereof, further to undergo R.I. for six months. It is further submitted that Criminal Appeal No. 413-DB of 2006 filed by petitioner was disposed of by the High Court and at present no appeal or revision is pending before the High Court.

Learned counsel for the petitioner submitted that petitioner's father passed away on 01.07.2024 at Park Hospital, Gurgaon and Rasam Pagri/Last Rites are to be performed on 11.07.2024. That petitioner had already undergone almost 20 years of sentence of imprisonment and his premature release case is pending before the High Court. It is further pointed out that even earlier petitioner has availed parole several times and always surrendered in jail well in time. The conduct of petitioner remained good inside the jail and has been awarded good conduct remissions by the Government of Haryana from time to time. It is thus prayed that petitioner may kindly be granted Emergency Parole for 15 days in order to attend Last Rites/Rasam Pagri programme of his father on 11.07.2024.

6. Status report is filed. Learned counsel for the State verifies that father of petitioner unfortunately passed away on 30.06.2024 and

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cremation has been done on 01.07.2024 and Tehravi of his father is to be held on 11.07.2024 at Ward No. 5, Kanina. However, release of the petitioner is opposed by learned counsel for the State while submitting that petitioner is a hardcore prisoner as per Section 2(1)(g)(iv) and (vii) of the Haryana Prisoners Good Conduct (Temporary Release) Act, 2022. As per status report, there is reference of three other FIRs. It is stated that brothers of petitioner/convict who are serving in CRPF are present to attend Tehravi, therefore, the necessary rites can, thus, be performed by them as well. Parole is also opposed as there is apprehension of breach in peace of village. Therefore, it is prayed that present petition for grant of emergency parole to petitioner may kindly be dismissed.

7. I have heard learned counsel for the parties and gone through the record carefully. Section 5 of Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 reads as under :-

“5. Temporary release of a convicted prisoner on emergency parole on certain conditions. (1) The competent authority shall grant emergency parole to a convicted prisoner subject to such conditions and procedure as specified under sections 11 and 12. Emergency parole shall be granted to a convicted prisoner any time irrespective of the period of sentence undergone by him if a member of the convicted prisoner’s family has died or is in serious condition or the convicted prisoner himself is in serious condition.

(2) The competent authority shall verify the facts through in-charge of the police station concerned or through a jail officer not below the rank of Assistant Superintendent Jail who shall submit his report within twenty-four hours. The facts of the serious condition of the convicted prisoner or his family member shall be certified by the Medical Officer concerned

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and countersigned by the Civil Surgeon concerned.

(3) The period for which a convicted prisoner may be released under this section shall be decided by the competent authority which shall not exceed four weeks in a calendar year cumulatively and the period may be in parts.

(4) 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.”

It is matter of record that petitioner has been convicted and sentenced under Section 302 read with Section 34 of IPC. It is further verified by State that father of petitioner had expired on 30.06.2024 and cremation took place on 01.07.2024. As per Rasam Pagri Invitation Card annexed with amended petition by learned counsel for petitioner, Rasam Pagri/Last Rites of late Sh. Dalip Singh (father of petitioner) is to be held on 11.07.2024 at Ward No. 5, Mohalla Math Kanina, District Mahendergarh, Haryana. This fact is also confirmed in status report. As per custody certificate Annexure R-3, petitioner has already undergone 18 years, 10 months and 21 days of custody (including remissions and excluding parole) and during this period petitioner had availed parole from time to time and he surrendered back in jail on time.

8. Learned counsel for the State is unable to point out any material on record which can lead to satisfaction that release of petitioner may endanger security of the State or maintenance of public order or cause reasonable apprehension of breach of peace. No such impediment has been referred to which calls for denial of benefit of emergency parole to petitioner.



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9. Therefore, considering the previous conduct of petitioner and aforesaid facts, present petition filed by petitioner Pawan Kumar is allowed. Petitioner is directed to be released on emergency parole for a period of 10 days from the date of his release from jail, subject to his furnishing requisite and adequate surety bonds in terms of statutory provisions to the satisfaction of competent authority who would also impose requisite conditions to ensure that temporary release is not misused.

10. Petitioner shall undertake to maintain peace and good behaviour during this period. He shall surrender back to jail after expiry of parole period.

11. Petition stands disposed of accordingly.

12. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

10.07.2024

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No