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

CRWP-11093-2024

Date of Decision:- 03.12.2024

Kuldeep alias Balkar

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Randeep S. Dhull, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

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AMARJOT BHATTI, J. (Oral)

1. Petitioner Kuldeep alias Balkar filed criminal writ petition under Article 226/227 of Constitution of India read with Section 3 and 5 of Haryana Good Conduct Prisoners (Temporary Release) Act, 2022 (hereinafter to be referred as “the Act, 2022”) for issuing writ in the nature of Certiorari for quashing speaking order dated 03.11.2024 (Annexure P-1) vide which Superintendent of Jail, District Jail, Karnal – respondent No. 4 declined grant of emergency parole to petitioner for the purpose of marriage of his daughter, for a duration of 10 weeks on the ground that petitioner fell under the category of “hardcore prisoner” under Section 2(1)(g)(vi) of the Act, 2022, without considering the law and relevant provisions with further prayer that he may be released on emergency parole for a period of 10 weeks for marriage of his daughter Khushi, fixed from 04.12.2024 to 05.12.2024 or any other appropriate direction which the

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Court may deem fit and proper in the given facts and circumstances of case.

2. Learned counsel for petitioner argued that petitioner was convicted in FIR No. 115 dated 11.04.2010, under Section 148, 302, 307, 324, 323, 395 and 447 of IPC and Section 25 of Arms Act, registered at Police Station Ganaur, District Sonipat, to undergo imprisonment for life. He had preferred appeal in High Court bearing CRA-D-394-DB-2013, titled “Kuldeep alias Balkar and others Vs. State of Haryana”, which is dismissed on 11.01.2017. Petitioner is undergoing sentence in District Jail, Karnal. Marriage of petitioner’s daughter Khushi is fixed from 04.12.2024 to 05.12.2024 and in order to fulfill his family obligations, he had applied for emergency parole. Competent authority wrongly held him under the category of “hardcore prisoner” under Section 2(1)(g)(vi) of the Act, 2022 and it was held that he was not found eligible for temporary release on parole under Section 6(3) of the Act, 2022, having not completed 5 years of sentence, thus, rejected his application vide impugned order dated 03.11.2024 (Annexure P-1). Case of present petitioner is fully covered under the provisions of Section 5 of the Act, 2022. Action of respondent No. 4 is illegal, unsustainable in the eyes of law and arbitrary, thus, liable to be set aside. Family members of petitioner have already submitted their undertaking and there is a report of Gram Panchayat, village Nayabans, Tehsil Ganaur, District Sonipat. He is ready to fulfill all conditions and will maintain good conduct throughout the period of sentence and while on bail. Hence, present petition.

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3. Status report is already filed. It is argued that present petitioner/convict was convicted on 30.03.2013 by learned Additional Sessions Judge, Sonipat in FIR No. 115/2010 dated 11.04.2010 under Section 148, 302, 307, 323, 324, 447 of IPC read with Section 149 of IPC for rigorous imprisonment for Life and fine of ₹10,000/- and in default of payment of fine to further undergo rigorous imprisonment for a period of six months. Apart from aforesaid case, he was involved in nine other cases detailed in para No. 3 of status report and in three of the cases, he is on bail facing trial, whereas, in other six cases, he was acquitted on different dates. It is pointed out that petitioner was released on special parole on 04.03.2020 from Central Jail, Ambala during pandemic Covid-19 but he did not follow parole rules and was involved in FIR No. 213 dated 17.07.2020 under Section 341, 364-A, 34 of IPC and Section 25 of Arms Act, Police Station Rai, District Sonipat and other FIR No. 304/2020 under Section 25 of Arms Act, Police Station Ganaur, District Sonipat. He was arrested by local police before expiry of his parole and was sent to District Jail, Sonipat on 19.07.2020. Again petitioner was released on parole for six weeks on 16.07.2021 for agricultural work and he was again involved in FIR No. 373 dated 10.08.2021, under Section 392, 482, 120-B of IPC, Police Station Dankaur, Gautam Budh Nagar, Uttar Pradesh. Under these circumstances, application filed by wife of petitioner namely Babita was rejected being petitioner not eligible for parole or furlough. However, in status report, it is confirmed that there is marriage of daughter of petitioner namely Khushi, fixed for 05.12.2024 with Anil and family members in house are namely Babita (wife), Khushi (daughter) and Sachin (minor son).

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4. I have considered the arguments and have gone through the record carefully. Main objective of release on parole is to enable inmate to maintain continuity with his family and to fulfill his family obligations. Right to parole is a concession granted to a prisoner subject to certain conditions. Grant of parole is regulated by statute and authorities concerned while granting parole is to consider overall facts and circumstances of case alongwith provisions which are applicable for granting concession of parole. As detailed in status report, present petitioner was granted parole on two occasions i.e. firstly on 04.03.2020 and during this period, he was involved in two FIRs and while release on parole on 16.07.2021 for six weeks, he was again involved in other FIR as detailed above. Conduct of present petitioner indicates that whenever he was released on parole, he was involved in one criminal case or the other. Aforesaid FIRs were registered prior to coming into force of Haryana Good Conduct Prisoners (Temporary Release) Act, 2022. As per provisions of Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, he does not fit in the definition of hardcore prisoner. As per Section 3 of Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, State Government may, in consultation with District Magistrate and subject to such conditions and manner as may be prescribed, may be released temporarily for a period of four weeks for the purpose of marriage of his daughter as detailed therein but said relief is discretionary. Considering the status report and previous conduct of petitioner, I do not find it appropriate to release petitioner on parole, as prayed for. However, petitioner Kuldeep alias Balkar is granted custody parole for attending marriage of his daughter Khushi on

05.12.2024. Since it is marriage of his daughter, therefore, he may be taken in custody by police in plain clothes for a period of six hours (excluding journey time) for the duration as suitable to petitioner.

5. With aforesaid observation, present petition is disposed of.
6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

03.12.2024

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No