

(2019) 02 P&H CK 0316

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 3473 Of 2019 (O&M)

Sushil Son @ Mohinder Sharma

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 08-02-2019

Acts Referred:

Indian Penal Code, 1860 — Section 148, 149, 323, 325

Haryana Good Conduct Prisoners (Temporary Release) Rules, 2007 — Rule 4(1)

Citation : (2019) 02 P&H CK 0316

Hon'ble Judges : Harinder Singh Sidhu, J

Bench : Single Bench

Advocate : Jagdish Manchanda, Arjan Singh Yadav

Final Decision : Allowed

Judgement

Harinder Singh Sidhu, J

This petition has been filed for quashing of order dated 30.01.2019 (Annexure P-4) passed by the Superintendent Jail, District Jail, Kaithal whereby the application of the petitioner for release on parole to attend the marriage of his son has been rejected.

The petitioner has been convicted and sentenced to undergo rigorous imprisonment for 4 years in case FIR No.139 dated 2.5.2006 under Sections 323, 325, 148 and 149 IPC, Police Station Pundri, District Kaithal by Chief Judicial Magistrate, Kaithal vide judgment and order dated 5.6.2015/9.6.2016. His appeal was dismissed by Additional Sessions Judge, Kaithal on 11.01.2019. He has filed Criminal Revision No.250 of 2019 which is pending adjudication before this Court.

He filed an application for release on parole to attend the marriage of his son which is fixed for 10.02.2019. The said application was rejected vide impugned order dated 30.01.2019. Reference was made to Rule 4(1) of Haryana Good Conduct Prisoners (Temporary Release) Rules 2007 as per which the prisoner

would be entitled for parole only after he has completed one year of his imprisonment after the conviction and has earned his first annual good conduct remission under the Act.

There is no doubt, the petitioner cannot be released on parole in view of the aforesaid rule. A Division Bench of this Court in Criminal Writ Petition No.483 of 2012 titled Jagdev Singh and another vs. State of Punjab and others decided on 16.03.2012 has observed that if the statutory rules impose a legal bar on consideration of the case of the convict for temporary release, the same ought not to be overcome by a judicial order. However even in such a case it would be open to the court to consider their entitlement to release for a limited period if the peculiar facts and circumstances of the case so warrant.

In view thereof, considering the nature of the offence for which the petitioner has been convicted and that he had remained on bail throughout trial and even during the pendency of the appeal and the limited period and purpose for which the release is being sought it is deemed expedient to direct the release of the petitioner on bail for a period of one week.

Accordingly this petition is allowed. The petitioner is directed to be released on bail for a period of one week (09.02.2019 to 16.02.2019) on furnishing necessary bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate. He shall surrender before Superintendent Jail, District Jail, Kaithal on or before 5:00 P.M on 16.02.2019.

A copy of this order be supplied to counsel for the petitioner under the signatures of the Special Secretary of the Bench.