

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

**Crl. Writ Petition No. 1521 of 2013 (O&M)
Date of decision : 14.10.2015**

Mohan Singh

..... Petitioner

versus

State of Punjab & Ors.

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

**Argued by: Mr. S.S. Rana, Advocate
for the petitioner.**

Mr. K.S. Aulakh, AAG Punjab.

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ANITA CHAUDHRY, J.

The instant writ petition has been filed by the petitioner seeking directions to the respondents to release him prematurely in the light of Para 516-B of Punjab Jail Manual and his detention was illegal in view of Government policy dated 23.10.2001. A further prayer was made to quash order dated 10.07.2013 vide which his premature release case was declined in violation of Government instructions dated 08.07.1991.

The facts are being noticed first. Petitioner and his co-accused were tried for the murder of his grandmother Sant Kaur. The trial Court acquitted them. This Court vide judgment dated 18.11.1981 held them guilty under Sections 302, 323 read with Section 34 IPC and sentenced them for life. Their appeal was stated to have been dismissed by the Apex Court.

It was further case of the petitioner that he had undergone about 10 years of actual sentence of imprisonment and about 18 years after adding remissions. However, the Competent Authority vide order dated 10.07.2013 rejected his claim for premature release observing that he had committed the murder of his grandmother and his release would give wrong signal to the society.

The grouse of the petitioner is that at the time of commission of offence he was 17 years of age and his case was liable to be considered as per Para 516-B of Punjab Jail Manual, prevalent at the time he was convicted, which required a convict to undergo 14 years sentence with remissions. Further, as per instructions dated 08.07.1991 a conviction is liable for consideration for pre-mature release who had undergone 10 years of sentence 14 years with remissions and as per instructions dated 23.10.2001 where a convict opted to undergo imprisonment in Open Air Agriculture Jail, Nabha, he has to be given benefit of one year consideration for premature release. But the Competent Authority dehors the provisions/ instructions, rejected his case on the ground that he had committed heinous crime.

Respondents in the affidavit dated 27.10.2013 have admitted that the case of the petitioner was considered and was rejected in the light of Government instructions dated 08.08.2011, as the same superseded the instructions dated 08.07.1991. It was submitted that the convict had undergone 08

years 04 months and 24 days of actual sentence and 16 years 04 months and 24 days sentence with remissions as on 25.11.2013. Vide affidavit dated 20.07.2015, it was pointed out that the Hon'ble Apex Court had restrained the State Government from exercising power of remission to life convicts by dint of order dated 09.07.2014 passed in Writ Petition(Crl.) No.48 of 2014.

In the additional affidavit dated 28.09.2015, it was submitted that in view of policy dated 04.04.2013 and in the light of order passed by the Hon'ble Apex Court, the premature release case of the petitioner had been initiated again. Superintendent of Police, Fatehabad has not recommended for his release, while the report of District Magistrate, Fatehabad was awaited and on receipt of the same, it would be forwarded to the Competent Authority for final decision.

The pre-mature release case of the petitioner is under process and is being re-considered by the authorities. The instant writ petition is disposed of with a direction to the Competent Authority to re-consider the case of the petitioner and decide the same as expeditiously as possible, preferably within four months. Needless to say that the case of the petitioner be considered in the light of the relevant policy decision(s) framed by the Punjab Government which existed at the time of his conviction, in view of law laid down in ***State of Haryana & Ors. Vs. Jagdish, 2010(2) RCR(Crl.) 464.*** In case, the case of the petitioner for premature release is not decided within the stipulated time, the petitioner shall be released on parole on his furnishing personal

bond and surety bond to the satisfaction of the District Magistrate concerned. The petitioner shall give an undertaking that he will not leave the country without prior permission of the Court and will keep peace and shall not indulge in any criminal activity during parole. On receipt of order from the State Government, respondent no.3 shall inform the petitioner accordingly. In case the competent authority passes any adverse order on the premature release case of the petitioner, he shall surrender before the Jail Authorities within three days of communication of the said order.

October 14,2015
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(ANITA CHAUDHRY)
JUDGE