

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

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**Crl. Writ Petition No.1155 of 2014
Date of decision: August 13, 2015**

Bant Singh

....Petitioner

versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

Present: Mr. Vijay Kumar Jindal, Advocate for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226/227 of the Constitution of India for quashing of the order dated 22.11.2013 (Annexure P-6) passed by Principal Secretary, Home and Justice Department, Punjab, Chandigarh whereby the case of the petitioner for premature release has been declined. A further prayer has also been made to consider the case of the petitioner in view of Para 431 of New Punjab Jail Manual, 1996(Annexure P-4).

Learned counsel for the petitioner submits that the petitioner

was sentenced to undergo rigorous imprisonment for life under Section 302 IPC and he has already undergone more than 12 years of actual sentence and 18 years of sentence including remission. Learned counsel also submits that the offence under Section 302 IPC does not fall under the definition of heinous crime as described in Para No.431 of Punjab Jail Manual, 1996.

Paragraph 431 of Punjab Jail Manual, 1996 which is applicable to the case of the petitioner who was convicted way back in the year 1998 defines the crimes which fall under the definition of heinous crimes. Committing the murder of one's father is not defined as a heinous crime in Column 'B' of Para 431 of Punjab Jail Manual, 1996 which reads as under:

“A. Heinous crimes with reference to column 'B' of 1(i) above are defined as follows:

- (i) Offence under Section 302 along with 347 of the IPC i.e. murder with wrongful confinement for extortion.*
- (ii) Section 302 with 375 i.e. Murder with rape.*
- (iii) Offence of dacoity with murder.*
- (iv) Offence under Section 302 along with offences under the Terrorist and Disruptive Activities(Prevention)Act, 1987.*
- (v) Offence under Section 302 along with offence under the Untouchability (Offences) Act, 1955.*
- (vi) Offence under Section 302 where murder has been committed in connection with any dispute over dowry and this is indicated in the judgement of the trial Court.*

(vii) *Offence under Section 302 where the victim is a child under the age of 14 years.*

(viii) *Double murder and murder committed after conviction while inside the jail or on parole or an expiry of sentence shall be treated as heinous crime.*

(xi) *Any conviction under Section 120-B of the IPC.”*

Learned State counsel submits that the claim of the petitioner has been rejected only on the ground that he has completed only 12 years of actual sentence and 18 years of sentence including remission. Learned State counsel also submits that the petitioner had committed murder of his father and therefore, it comes under the category of heinous crimes. The authority concerned was also of the opinion that the premature release of the petitioner on the basis of mercy would give a wrong signal to the society and there would be propensity for people to commit such offences. Learned State counsel also submits that in view of order dated 09.07.2014 passed by Hon'ble the Apex Court in **Writ Petition (Criminal) No.48 of 2014** titled as **Union of India vs. V. Shriharan @ Murugan and others**, the premature release cases of those life convicts who have completed the parameters of the premature release policy applicable in their cases, were held up as the State Government was restrained to pass order of premature release. He also submits that now, on 23.07.2015, Hon'ble the Apex Court has modified the stay order dated 09.07.2014. The relevant portion of order dated 23.07.2015 is reproduced as under:

“Accordingly, we modify our order dated 09.07.2014, whereby

we had restrained the State Governments from exercising power of remission or commutation of life convicts. The said order dated 09.07.2014 shall only apply to cases:

- i. where life sentence has been awarded specifying that-*
 - (a) The convict shall undergo life sentence till the end of his life without remission or commutation;*
 - (b) The convict shall not be released by granting remission or commutation till he completes a fixed term such as 20 years or 25 years or like.*
- ii) where no application for remission or commutation was preferred, or considered suo motu by the concerned State Governments/authorities.*
- iii). where the investigation was not conducted by any Central Investigating Agency like the Central Bureau of Investigation.*
- iv) where the life sentence is under any central law or under Section 376 of the Indian penal Code, 1860 or any other similar offence.”*

Learned State counsel also submits that in compliance of order dated 23.07.2015 passed by Hon'ble the Apex Court, the premature release case of the petitioner as well as other prisoners, who have completed their requisite sentence are being considered by the State and the same is likely to be decided within two months.

In view of the submissions made by learned counsel for the parties as well as keeping in view the order dated 23.07.2015 of Hon'ble the Apex Court in **Shriharan @ Murugan's case (supra)**, the present petition is disposed of with a direction to the respondent-State to consider the case of the petitioner within a period of two months from the date of receipt of copy of this order, failing which the petitioner shall be entitled for interim bail subject to furnishing bail/surety bonds to the satisfaction of CJM concerned till the decision is taken.

However, in case, the matter is considered and any decision is taken by the respondent-State, the impugned order dated 22.11.2013(Annexure P-6) stands quashed after passing of the fresh order.

Disposed of accordingly.

(DAYA CHAUDHARY)
JUDGE

August 13, 2015
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