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

CRWP No.1156 of 2014

Date of Decision: January 12, 2015.

Vijay

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

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

Ms. Dimple Jain, AAG Haryana.

SABINA, J.

Petitioner has filed this petition under Article 226 of the Constitution of India seeking quashing of impugned order dated 05.03.2014/29.04.2014.

Learned counsel for the petitioner has submitted that the impugned order was liable to be set aside as the case of the petitioner was liable to be treated under Para 2(b) of the policy Annexure P-4. No reasons had been given in the impugned order as to why the case of the petitioner had been considered under Para 2(a) of the policy.

Learned State counsel on the other hand has submitted that the allegations levelled against the petitioner were serious in nature and case of the petitioner fell under Para 2(a) of the policy Annexure P-4.

Paras 2(a) and 2(b) of the policy Annexure P-4 read
as under:-

a)	Convicts whose death sentence has been commuted to life imprisonment and convicts who have been imprisoned, for life for having committed a heinous crime, such as, murder with wrongful confinement for extortion/robbery, murder with rape, murder while undergoing life sentence, murder with dacoity, murder under T.D. Act, 1987, murder with Untouchability (Offences) Act, 1955, murder in connection with dowry, bride burning, murder of a child under the age of 14 years, murder of handicapped or pregnant women or murder after abduction or kidnapping, murder on professional/hired basis, murder exhibiting brutality such as cutting the body into pieces or burning/dragging the body as evident from Judgment of sentence, persistent bad conduct in the prison and those who can not for some definite reasons be prematurely released without danger to public safety; or convicts who have been imprisoned for life under Section 120-B of IPC or life convicts who have been awarded life imprisonment a second time under NDPS Act or life convicts who have been awarded life imprisoned for life second time under any offence.	Their cases may be considered after completion of 14 years actual sentence including under-trial period and after earning at least 6 years remission.
b)	Adults life convicts who have been imprisoned for life but whose cases are not covered under (a) above and who have committed crime which are not considered heinous as mentioned in clause (a) above.	Their cases may be considered after completion of 10 years of actual sentence including under-trial period, provided that the total period of such sentence including remissions is not less than 14 years.

The impugned order Annexure P-8 reads as under:-

*“Whereas, life convict No.310/C Vijay S/o
Ram Naresh who is presently confined in District Jail*

Faridabad had committed the murder of Kamal Singh by administering poisonous substance in the cold drink during journey by train and also committing theft of Rs.8000/- and other belonging to Kamal Singh on 13.04.1995. He was convicted and sentenced for life imprisonment in case FIR No.171 dated 29.04.1995, P.S. G.R.P. Faridabad U/s 302/379 IPC by the Sessions Judge, Faridabad. Total period of sentence undergone by this convict in the Jail upto 27.11.2013 is as under:-

	<u>Y</u>	<u>M</u>	<u>D</u>
ACTUAL SENTENCE	10-	10-	26
TOTAL SENTENCE	14-	03-	00

2. *And whereas, the date of the conviction of the petitioner is 17.03.1998. So the policy of Premature Release dated 04.02.1993 is applicable in this case. The Premature Release case of this life convict falls under para 2(a) of the policy dated 04.02.1993. As per this para the Premature Release case of this life convict is to be considered after completion of 14 years of actual sentence and 20 years of total sentence. This life convict has completed 10 years 10 months 26 days actual sentence including under trial period and 14 years 03 months 00 days total sentence including remission and after deducting parole period.*

3. *And whereas, the case of premature release of this convict was placed before the State Level Committee on 29.01.2014. The State Level Committee after considering the matter has not recommended the premature release case of this life convict as he has neither completed 14 years actual sentence nor 20 years total sentence as per the policy dated 04.02.1993.*

4. *And whereas, the case of the life convict has been considered and agreeing with the recommendations of the State Level Committee, the life convict Vijay S/o Ram Naresh has not been found eligible for premature release at this stage.”*

A perusal of the impugned order reveals that while considering the case of the petitioner under Para 2(a) of the policy dated 04.02.1993, no reasons have been given. Petitioner has been convicted and sentenced qua commission of offence under Sections 302/379 of Indian Penal Code, 1860.

In these circumstances, it would be just and expedient to direct the competent authority to pass a fresh order in accordance with law.

Accordingly, this petition is allowed. Impugned order Annexure P-8 is set aside. Competent authority is directed to pass a fresh order in accordance with law preferably within a period of six weeks from the date of receipt of copy of the order.

**(SABINA)
JUDGE**

January 12, 2015
m.singh