

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No. 1307 of 2014 (O&M)
Date of Decision : 14.09.2015

Joginder Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

Present: Mr. Harjinder Singh, Advocate
for the petitioner.

Mr. Gazi Mohd., DAG, Punjab.

R.P. NAGRATH, J. (Oral)

CRM-W No. 240 of 2015

Applications is allowed and copies of orders dated 15.05.2015, 23.07.2015 and judgment dated 16.04.2015 are placed on record as Annexures P-14 to P-16, respectively.

CRWP No. 1307 of 2014

Prayer in the instant petition is made under Article 226 of the Constitution of India for issuance of an appropriate order or directions to respondents to release the petitioner forthwith prematurely on usual terms and conditions as per Govt. instructions dated 08.07.1991(Annexure P-3). Prayer is further made for quashing of order dated 06.11.2013 (Annexure P-5) being illegal, arbitrary, discriminatory and against the Govt. Policy (Annexure P-3).

Earlier the instant petition was adjourned *sine die* because the matter relating to remissions to life convicts was pending before Hon'ble Supreme Court. That Writ Petition (Criminal) No. 48 of 2014 has since been decided by Hon'ble

Supreme Court on 23.07.2015.

I have heard learned counsel for the petitioner, the State counsel and perused the paper-book.

The representation made by the petitioner was declined on 06.11.2013 vide impugned order Annexure P-5 passed by the competent authority. The order reads as follows:-

“Convict Joginder Singh son of Virsa Singh alongwith his co-accused murdered Jaswinder Kaur.

A recommendation report regarding pre-mature release of Joginder Singh son of Virsa Singh is received from Additional Director General of Police (Prisons) in which it has been stated that an appeal of convict is pending in the Hon'ble Supreme Court of India. According to the orders of Governor of Punjab that if the appeal regarding his conviction is pending in any Hon'ble Court the case can not be considered for pre-mature release. Mean to say that the pre-mature release case cannot be considered till the final decision of convict's conviction by the Hon'ble Court. So that the pre-mature release case of convict Joginder Singh son of Virsa Singh is not considered due to the appeal pending in the Supreme Court.”

Learned counsel for the petitioner, therefore vehemently, contends that pre-mature release case of the petitioner was declined mainly on the ground because his appeal against conviction was still pending before Hon'ble Supreme Court. It is, however, submitted that appeal of the petitioner

before Hon'ble Supreme Court in Criminal Appeals No. 1041 to 1043 of 2008 alongwith Criminal Appeal No. 1814 of 2009 (Ashwani Kumar @ Ashu and another Vs. State of Punjab) have since been dismissed on 16.04.2015. Copy of the judgment of Hon'ble Supreme Court is Annexure P-16.

Learned State counsel, however, submits that after the earlier representation for remissions is dismissed by the competent authority, the case of the petitioner can be taken up under the rules after two years. But that prescribed period shall not be an impediment to the fresh decision of petitioner's prayer because the only ground for declining the prayer for remissions was the pendency of appeal before Hon'ble Supreme Court.

Learned counsel for the petitioner further submits that the petitioner has by now undergone about 12 years of actual imprisonment with five years of remissions and his case would fall under the policy dated 08.07.1991 (Annexure P-3). That is for the Competent Authority to look into.

Therefore, the instant petition is dispose of with liberty to the petitioner to file comprehensive representation before the Superintendent of Open Air Jail, Nabha and on filing such representation, it is directed that the same be disposed of expeditiously but preferably within a period of one month. Learned counsel for the petitioner submits that the petitioner would make the representation within two week.

September 14, 2015
jk

(R.P. NAGRATH)
JUDGE