

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No.1342 of 2014 (O&M)
Date of decision: December 09, 2015

Harbans Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Suram Singh Rana, Advocate
for the petitioner.

Ms.Simsi Dhir Malhotra, Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this criminal writ petition under Article 226 of the Constitution of India for directing the respondents to release the petitioner forthwith prematurely on usual terms and conditions as per Govt. Instructions dated 08.07.1991 and further for quashing of order dated 10.07.2014 being against the Govt. Policy and order dated 15.05.2014 passed by this Court.

Notice of motion was issued and learned State counsel appeared and contested the petition and also filed the reply.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that Annexure P-1 is the Policy for

grant of remissions of sentences of life imprisonment under Section 432, 433 and 433(A) Cr.P.C. and Article 161 of the Constitution of India. Annexure P-2 is the order whereby the case of life convict Harbans Singh (petitioner) for premature release in this case has been rejected. As per this order, at that time the convict has already undergone 13 years 7 months and 2 days (including under trial period) of actual sentence and 21 years 1 month and 6 days including remissions (excluding parole) as per roll dated 03.11.2011 sent by office of Additional Director General of Police (Prisons). The concerned District authorities have also recommended the case of the convict for premature release. The case of the accused-petitioner was rejected on the ground that convict Harbans Singh had harassed his wife for dowry articles and murdered her with iron rod brutally and it is also stated that if such kind of person is released on mercy ground before completion of sentence pronounced by the Court, then it will encourage such kind of persons to commit more such crimes in the society. This order was challenged before this Court and this Court passed order dated 15.05.2014 wherein the plea has been taken by the State that the petitioner did not fulfill the condition as he had committed the jail offence for over staying on furlough for 2559 days after his arrest and therefore, his case for premature release could not be initiated after 08.08.2011. This Court after considering the custody period, law, policy and new guidelines issued by the State Government, held that the case of the petitioner is required to be reconsidered in the light of instructions dated 08.07.1991, which were

prevalent at the time of his conviction in the year 1992. The directions were issued to respondents to reconsider the case of the petitioner in the light of the relevant policy decision framed by Punjab Government which existed at the time of his conviction within a stipulated time and 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. Annexure P-4 is the impugned order dated 10.07.2014 passed by the competent authority. I have gone through this order. According to this order dated 10.07.2014, as per jail roll dated 29.05.2014 submitted by DGP (Prisons) Punjab, convict has undergone 16 years 2 months 18 days of actual sentence (including trial period) and with remissions (after deducting parole period) has undergone 23 years 4 months and 10 days. Again, in this order, it has been stated that the convict has murdered his wife Gurmail Kaur by hitting several handle blows due to dowry, which is heinous, inhuman and brutal crime and the same gives wrong message to the society and if such convict is released before completing the sentence prematurely on mercy ground, then it will boost the confidence of those persons to commit such heinous crime. The perusal of this impugned order dated 10.07.2014 shows that the competent authority has not discussed the order passed by this Court and again passed the same without discussing the policy provisions and the order passed by this Court vide which the directions were given to reconsider the matter. So, the impugned order passed by

competent authority is not as per the directions given by this Court and the order has been passed in routine by stating same facts as in the earlier order. Nothing has been discussed, which this Court has stated in the order dated 15.05.2014 while giving directions to the competent authority. The competent authority should have passed the detailed order by discussing the policy etc. as discussed in the order passed by this Court.

Further, I find that in the impugned order passed by the competent authority, which is Annexure P-4, nothing has been discussed that in which classification the case of the convict-petitioner falls and how much sentence he is supposed to undergo as per the policy. Therefore, the impugned order dated 10.07.2014 is set aside and competent authority is again directed to pass detailed order within a period of six weeks after receiving the certified copy of this order, to the effect that in which category the case of the petitioner falls and how much period he is to undergo for premature release and also to pass detailed order in view of the order passed by this Court on 15.05.2014.

Therefore, finding merit in the present criminal writ petition, the same stands allowed accordingly.

December 09, 2015
Vgulati

(INDERJIT SINGH)
JUDGE