

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

Crl. W.P. No.1377 of 2014 (O&M)

Date of Decision: 28.08.2015

Jatinder Kumar @ Bawa

....Petitioner

Versus

State of Punjab etc.

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. S.S. Rana, Advocate
for the petitioner.

Mr. Rupam Aggarwal, D.A.G., Punjab
for the respondent-State.

DAYA CHAUDHARY, J. (ORAL)

CRM-W-91 of 2015

Learned counsel for the applicant-petitioner wishes to
withdraw this application.

Dismissed as withdrawn.

Crl. W.P. No.1377 of 2014

This petition has been filed under Article 226 of the
Constitution of India for issuance of a direction to the respondents to
release the petitioner forthwith prematurely and also for quashing of
impugned order dated 18.06.2014, whereby, the claim of the petitioner has
been rejected.

Learned counsel for the petitioner submits that the petitioner
earlier approached this Court by way of filing ***Criminal Misc. No.M-30215
of 2012***, which was disposed of with a direction to the respondents to
consider the case of the petitioner for pre-mature release within a period of
four weeks and in case, the same is not decided within the stipulated
period, the petitioner shall be released on parole. Learned counsel also

submits that in spite of specific directions issued by this Court on 02.08.2013, again the claim of the petitioner has been rejected and no reason, whatsoever, has been given. Simply, it has been mentioned that the case of the petitioner has been reconsidered and the same has been rejected while exercising the powers under Section 432/433 Cr.P.C.

Learned counsel for the respondent-State submits that the case of the petitioner will be considered in view of directions issued by Hon'ble the Apex Court in **Writ Petition (Crl.) No.48 of 2014** titled as **Union of India vs V. Sriharan @ Murugan and others**, decided on **23.07.2015**.

Heard the arguments of learned counsel for the parties and have also gone through the documents placed on the file.

A perusal of impugned rejection order shows that no reason, whatsoever, has been mentioned therein. Simply, it has been mentioned that the case of the petitioner has been reconsidered and rejected, which is totally non-speaking order. It appears that the same order has been passed just to comply with the directions issued by this Court. The action of the respondents appears to be *mala fide*.

As per case of the petitioner, he has undergone custody of more than 15 years and in case, the remissions are included, then he is entitled to be released pre-maturely as per policy of the State Government. It has also been submitted by learned counsel for the petitioner that the petitioner has maintained good conduct in jail and has not committed any offence. The claim of the petitioner was earlier rejected and thereafter, again a second petition was filed, wherein, the directions were issued to reconsider his claim but second time also, his claim has been rejected without giving any reason.

In view of the above, the present petition is allowed and the

impugned order is liable to be set aside and accordingly, the same is hereby quashed being non-speaking and without being given any reason of rejection.

However, keeping in view the submissions made by learned counsel for the respondent-State that the case of the petitioner would be reconsidered by the competent authority, the respondents are directed to consider the same within a period of two months from the date of receipt of certified copy of this order.

In case, the claim of the petitioner is not considered within the said period, then the petitioner shall be entitled for interim bail till the decision is taken. It is also made clear that the claim of the petitioner be considered in view of directions issued by Hon'ble the Apex Court in ***V. Sriharan @ Murugan's*** case (supra) and as per policy of the State Government.

28.08.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE