

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

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**Crl. Writ Petition No.1466 of 2014
Date of decision: August 13, 2015**

Balvir 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. Nandan Jindal, Advocate for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226 of the Constitution of India for issuance of direction to the respondents to consider the case of the petitioner for premature release like his co-accused, namely, Kaka Singh, Jaspal Singh, Charanjit Singh, Jit Singh etc. (Annexure P-2).

Learned counsel for the petitioner submits that the case of the petitioner falls under Column 'C' of the policy dated 08.08.2011(Annexure

P-1) and he has committed a non-heinous crime. Learned counsel also submits that as per Column 'C' of the policy, the convict who has committed a non-heinous crime, is required to undergo actual sentence for 10 years and 14 years of imprisonment including remission. Learned counsel also submits that the case of the petitioner for premature release was sent in February 2014, but still no action has been taken thereon whereas other co-convicts of the petitioner have already been released in the year 2013. Learned counsel also submits that the petitioner has undergone actual custody of more than eleven years as on today and after including remission and parole, the period comes to more than 17 years.

Learned State counsel 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 policies applicable in their cases, were held up. 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 is 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 decide the matter in

view of order/policy/law 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 Sangrur, till the decision is taken.

Disposed of accordingly.

(DAYA CHAUDHARY)
JUDGE

August 13, 2015
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