

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

CRWP No.358 of 2014
Date of decision : 28.08.2015

Jarnail Singh @ Jaila Singh

...Petitioner

Versus

State of Punjab and Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

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

Mr. Luvinder Sofat, AAG, Punjab
assisted by ASI Darshan Singh

JITENDRA CHAUHAN, J. (Oral)

This petition has been filed under Articles 226/227 of the Constitution of India for issuance of directions to the respondents to grant the benefit of pre-mature release to the petitioner as per Government Instructions/Policy dated 08.07.1991 (Annexure P-1).

It is contended that the case of the petitioner is covered by the policy dated 08.07.1991 (Annexure P-1) issued by the Government of Punjab, Department of Home Affairs and Justice (Home VII Branch). Para 1.1 of the said policy reads as under:-

“1.1 Minimum periods of imprisonment to be

undergone for the convict before consideration of application for exercise of powers of the Government under Article 161 of the Constitution. Cases will be considered by the Government for grant of remission after the following periods of imprisonment are undergone by the convicts:-

A		B		C		D		E	
For convicts whose death sentence has been committed to life imprisonment .		Convicts who have been imprisoned for life for offences for which death is a punishment and have committed heinous crime.		Convicts who have been imprisoned for life for offences for which death is a penalty but crimes are not considered heinous.		Other life convicts imprisoned for life for offences for which the death penalty is not a punishment and have committed heinous crimes		Other life convicts.	
Actual imprisonment	Imprisonment with remission	Actual imprisonment	Imprisonment with remission	Actual imprisonment	Imprisonment with remission	Actual imprisonment	Imprisonment with remission	Actual imprisonment	Imprisonment with remission
Adults -14	20	12	18	10	14	10	14	8	14
Females									
Min-Ors.-10	14	8	12	8	12	8	12	6	18

The learned counsel for the petitioner further submits that the petitioner in fact has undergone the total actual period i.e.15 years, 4 months and 1 day and total custody including remission i.e.23 years, 4 months and 1 day as on 27.08.2015 against the prescribed sentence of 12 years and 18 years respectively as notice in Column 'B' of the Policy (Annexure P-1). He

states that the case of the petitioner was recommended for premature release on 16.06.2011 and the same was wrongly rejected by the State by misinterpreting the policy.

On the other hand, the learned State counsel submits that the case of premature release is only considered provided a convict maintains good conduct in jail. For this purpose good conduct means that the convict did not commit any jail offence for a period of 5 years prior to the date of his eligibility for consideration for release as per Para 1.1 of the policy. However, the learned State counsel has not been able to refer to any circumstance or incident on the basis of which the benefit that has accrued to the petitioner vide policy Annexure P-1 can be denied.

Heard.

After recommendation of the case of the petitioner, it was found that the petitioner had committed two offences and the FIRs had been lodged against him. However, in one FIR he has been acquitted and in the other FIR he has undergone the entire sentence. The question that emerges for consideration by this Court is the relevant point of time for reckoning the period of five years to make the convict eligible for premature release in terms of Para 1.1 of the Policy Annexure P-1.

Keeping in view the fact that the case of the petitioner for premature release was recommended in the year 2011 and there being nothing adverse against the petitioner during five years preceding to the

recommendation of his case, this court feels that the petitioner has acquired the eligibility to secure the benefit of premature release on the date when the case of the petitioner for premature release had been recommended.

In the light above, this court feels that present petition deserves to be succeeded.

Accordingly, the present petition is allowed. The competent authority is directed to consider the case of the petitioner afresh for premature release as per Government Instructions/Policy dated 08.07.1991, within three months from the receipt of certified copy of this order.

28.08.2015

ashok

**(JITENDRA CHAUHAN)
JUDGE**