

...

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-943-2014

Date of Decision : October 20th, 2015

Rattan

.... Petitioner

Versus

State of Haryana etc.

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present Mrs. Anju Arora, Advocate,
for the petitioner.

Mr. Tanuj Sharma, AAG, Haryana
for the respondent-State.

SHEKHER DHAWAN, J.

Present writ petition under Article 226/227 of the Constitution of India for seeking direction to the respondents to release the petitioner prematurely as per instructions of Government of Haryana dated 12.04.2002 [Annexure P/1].

2. As per the petitioner, he was convicted and sentenced in case bearing FIR No. 185 dated 6.3.1997 under Section 302/34 IPC registered at Police Station Rai, District Sonapat for murder of Samunder Singh and sentenced to undergo Imprisonment for Life vide judgment dated 11.06.1999 passed by learned Sessions Judge, Sonapat.

3. Learned counsel for the petitioner while referring to the custody certificate dated 21.5.2014 [Annexure P/3], submitted that the petitioner is entitled to be released prematurely as per Paras 1(b), 4 and 5 of the policy of the State Government dated 12.04.2012 [Annexure P/1] as the petitioner

...

has completed more than 10 years of actual sentence with necessary remissions and his case is covered under Para 1[b] of the policy requiring 10 years plus 4 years = 14 years. Process for pre-mature release of the petitioner was initiated by the State Government, but the same was returned by respondent No. 2 by simply noting that from the judgment Annexure P/2, it is clear that the petitioner had dragged the dead-body of Samunder Singh during night time and as such, it was brutal murder and hence, the case of the petitioner is not covered as per policy Annexure P/1.

4. Learned counsel for the petitioner further submitted that there was no injury on the deceased on the back side indicating dragging of body and the case of the petitioner has not been considered properly by the State Government, though the petitioner is entitled to be released pre-maturely.

5. State in its reply took the plea that the case of pre-mature release of the petitioner was initiated and sent to Director General of Prisons, Haryana for consideration, but the same was returned because the case of the petitioner is covered under Para 2[a] of the policy dated 16.03.1999 as it was a case of dragging of body and thus, the case of the petitioner shall be considered after completion of 14 years of actual sentence including under-trial period and after earning 6 years remissions or after the completion of 20 years total sentence.

6. Having considered the submissions made by learned counsel for the parties and the fact that it had come in the judgment dated 11.6.1999 [Annexure P/2] that at the time of post-mortem examination of dead body of Samunder by PW-6 Dr. Arun Garg, six injuries were found to be incised wounds whereas one injury was reddish abrasion 9x1.5 cm over the right

...

shoulder, tender with blood infiltrated in the subcutaneous tissues and bluish bruise 1 cm. over the right upper eye-lid. The Medical Officer had given the opinion in his cross-examination that injuries No. 1 to 6 could be caused with axe [Ex.P/21] or Gandasa or Farsa and it had come in the findings of the Court below that it was a brutal murder case of dragging of body as per statement of PW-9 Rajinder Singh. In that way, the case of the petitioner for pre-mature release was rightly declined by the State and the present petition is without any merit. The same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

October 20th, 2015
som