

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

**CRWP No.966 of 2014
Date of Decision: April 23, 2015**

Subhash Chander

...Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. HPS Aulakh, Advocate
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

FATEH DEEP SINGH, J.

Through this invocation by way of criminal writ petition preferred under Articles 226/227 of the Constitution of India the petitioner had sought to seek initiation and decision on his premature release in terms of premature policy of the State of Haryana.

The factual background stems up on the allegations consequent to the arrest of the petitioner in FIR No.386 dated 18.8.2000 under Sections 320,304B,406,498B and 34 IPC read with Section 27 of the Arms Act pertaining to Police Station, City Sonapat are for a double murder of his brother Karan Singh and his wife Sonia by means of a firearm. The petitioner was tried and convicted by the Court of learned Additional Sessions Judge, Sonapat through judgment dated 31.3.2004 and which was

assailed by him by way of CRA-503-DB of 2004 and this Court through its finding dated 7.8.2006 upheld the judgment of conviction qua the petitioner and his appeal thus stood dismissed.

It is during the course of his incarceration, letter No.4344 dated 8.8.2012 was moved by the Superintendent District Jail, Sonapat for premature release of the petitioner and it is through orders contained by way of letter bearing memo No.23506 D.G.Jails/2012/G.3 dated 4.9.2012, the Director General of Police, Haryana intimated that his premature release case will be considered as and when the same is due in terms of part 2(a) of the policy dated 12.4.2002 and aggrieved over this the instant petition has come up by way of challenge to this.

Heard learned counsel for the parties.

Though, much arguments have sought to be made on the manner of highhandedness of the authorities and denial of legitimate constitutional right of the petitioner. However, to the very query of the Court, learned counsel for the petitioner could not refute by any means that under the settled position of law reference of which can be taken note of the ratio laid down in **State of Haryana and others vs. Jagdish 2010 AIR Supreme Court 1690** holding that for the purpose of grant of remission in the case of a life convict would be governed by the policy of the Government prevailing on the date judgment of conviction is passed and is not governed by the policy which existed as on the date of the consideration of his premature release. Though, liberty is one of the most precious and cherished possessions of a human being and he would certainly resist with much force any attempt leading to its denial. Though, in **Jagdish Singh's** case ibid

reference was made to Constitutional Bench view in **Maru Ram vs. Union of India (1981) Vol-I SCC 107** to hold that any scheme for short sentencing framed by the State would apply prospectively and in conformity with the provisions of Articles 20 Clause (1) and 21 of the Constitution of India. The Hon'ble Apex Court was of the view that the expectancy of period of incarceration is determined soon after the conviction on the basis of the applicable law and the established practices of the State. It is squarely accepted and is writ large on the record and is the own stand of the petitioner's counsel that the judgment of conviction and sentence was passed on 31.3.2004/2.4.2004. As has been brought to the notice of this Court during the course of arguments by the learned State counsel that in view of the settled position of law the policy of the Haryana Government notified vide memo No.36/135/91-IJJ(ii) dated 12.4.2002 would be applicable in the case of the petitioner in the light of his date of conviction and sentence. Having gone through the said policy with the invaluable assistance of the learned State counsel the case of the petitioner falls under 2aa(iii) a(viii) and which provides that cases of person covered under these categories which falls under the definition of 'heinous crime' may be considered after completion of 14 years of actual sentence including under trial period provided that the total period of such sentence including remissions is not less than 20 years. Learned counsel for the petitioner could not by any means impress how the case of the present petitioner could be considered prior to this period of 14 years. What has sought to be termed in the arguments of the petitioner's counsel to be lack of jurisdiction of the Director General of Prisons in deciding the case of the

premature release of the petitioner is certainly off the tangent and rather this authority has not considered the case for premature release of the petitioner but in fact has declined to forward the same to the appropriate authority for its consideration purely and purely on the grounds that his case for premature release would only be considered in the light of part 2A of the policy dated 12.4.2002 and since admittedly the petitioner has not completed that very essential condition prerequisite for forwarding his request for premature release nothing can be found fault with this refusal to forward his case to the appropriate authority.

In the light of the above discussions, the petition is wholly unfounded purely without any merit and deserves to be dismissed and as such stands dismissed.

(FATEH DEEP SINGH)
JUDGE

April 23, 2015
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