

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

240

**Criminal Writ Petition No.270 of 2015
Date of decision: September 03, 2015**

Paramjit Singh @ Mithu 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. Vijay Kumar Jindal, Advocate for the petitioner.

Mr. Rupam Aggarwal, DAG, Punjab.

DAYA CHAUDHARY, J.

The present petition has been filed under Articles 226/227 of the Constitution of India to consider the premature release case of the petitioner under Article 161 of the Constitution of India as per para 431 of the Punjab Jail Manual, 1996 as the petitioner has already undergone the requisite period of sentence.

Learned counsel for the petitioner submits that the petitioner has earlier filed **Criminal Writ Petition No.1518 of 2014** for grant of premature release and the same was disposed of on 17.10.2014 with a direction to the respondent-State to decide the application for premature release within a period of one month in accordance with law. He also

submits that the claim of the petitioner was declined by the respondent-State on the ground 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. Sriharan @ 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 as per aforesaid order passed by Hon'ble the Apex Court, the State Government was restrained from exercising powers of remission to the prisoners of life imprisonment and 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:

- “4. 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.*

5. However, we clarify that the President of India in exercise of his powers under Article 72 of the Constitution of India and the Governors of the States in exercise of their powers under Article 161 of the Constitution of India are not prevented from exercising their power(s), insofar as the cases referred to in Para 4 above are concerned.”

Learned counsel also submits that the petitioner has undergone actual custody of more than ten years imprisonment including under trial period and fourteen years imprisonment excluding parole, including remissions but still his case has not been considered.

Learned State counsel, on instructions from ASP Harpreet Singh, submits that in compliance of order dated 23.07.2015 passed by Hon'ble the Apex Court, the premature release case of the petitioner will be considered 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 **Sriharan @ Murugan's case (supra)**, the present petition is disposed of with a direction to the respondents 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.

Disposed of accordingly.

(DAYA CHAUDHARY)
JUDGE

September 03, 2015
sonia g.