

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

CRWP No.1461 of 2014

Date of Decision: March 10, 2016

Jaswinder Singh

.... Petitioner

vs.

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Sanjeev Manhas, Advocate for the petitioner.

Mr. Navdeep Singh, AAG, Punjab.

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh J.(Oral)

Petitioner Jaswinder Singh has approached this Court under Article 226 of Constitution of India read with Section 482 Cr.P.C. for quashing of impugned order dated 19.02.2014 (Annexure P-4), whereby premature release case of the petitioner was declined by respondent No.1. The petitioner was convicted and sentenced vide judgment of conviction and order of sentence dated 18.09.2003 with imprisonment of life for commission of offence punishable under Section 302 read with Section 34 IPC. He was also convicted and sentenced under some other sections.

As per the impugned order (Annexure P-4), the petitioner has undergone actual sentence of 10 years 8 months and 19 days (including under trial reason) and with remission (less parole) 17 years 11 months and 9 days. The premature release of the petitioner was declined only on the ground that Deputy Commissioner,

Hoshiarpur has not recommended the case of the petitioner because the release of the petitioner would disturb the law and order. The villager and family members of the deceased had also objected his release. The relevant part of the said order is reproduced as under:

“ Whereas the office of Additional Director General of Police, Jail and the Deputy Commissioner, S.B.S. Nagar have recommended premature release of the prisoner, but Deputy Commissioner, Hoshiarpur has not recommended to release the convict prematurely because the release of prisoner would disturb the law and order. The villager and family members of the deceased had also objected his release.”

I am of the view that policy as existing at the time of conviction of the petitioner is to be considered in deciding the case of premature release of the petitioner.

The case of the petitioner was recommended by the Additional Director General of Police, Jail and the Deputy Commissioner, S.B.S. Nagar. Therefore, their recommendations were also to be considered. The mere fact that the Deputy Commissioner, Hoshiarpur has the apprehension that the release of the petitioner would disturb the law and order and the same is objected by the villager and family members of the deceased is no ground to decline the premature release of the petitioner.

If the petitioner commits any crime after his release, he can always be booked for the said crime. As such, the impugned order is set aside and the matter is remanded to the State to reconsider the case of the petitioner as per policy existing at the time

of his conviction and pass a well reasoned order after considering the fact that the co-accused has been prematurely released as per order dated 08.06.2011(Annexure P-5) and also after considering the fact that whether at the time of earlier release of the petitioner on parole, had he committed any offence or not?

The case of the petitioner is to be decided within three months from the passing of this order.

Accordingly, the present petition stands allowed to the abovenoted extent.

March 10, 2016
sarita

(KULDIP SINGH)
JUDGE