

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No.251 of 2014 (O&M)
Date of decision: February 16, 2016

Buta Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

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

Mr.P.S.Grewal, Deputy Advocate General, Punjab
 for the respondent-State.

INDERJIT SINGH, J.

Petitioner has filed this criminal writ petition under Article 226 of the Constitution of India for issuance of directions to respondents to release him forthwith prematurely as on usual terms and conditions as per Govt. Instructions dated 08.07.1991 and further for quashing of order dated 02.08.2013.

It is mainly stated in the petition that petitioner was arrested by the police in case FIR No.80 dated 17.11.1995 under Sections 302, 201, 498-A and 34 IPC and ultimately, convicted and sentenced to undergo life imprisonment by learned Sessions Judge, Bathinda. The appeal filed by the petitioner was also dismissed by this Court on 26.04.2007. It is further stated that work and conduct of the

petitioner remained good and satisfactory inside the jail as well as outside the jail while on parole as he has not committed any jail offence so far. It is also stated in the petition that petitioner has already undergone about 11 years 7 months of actual sentence and about 19 years 7 months with remission.

It is further stated that Punjab Government has issued instructions dated 08.07.1991 regarding premature release of the life convicts while exercising the powers conferred under Sections 432, 433, 433 (a) Cr.P.C. and Article 161 of the Constitution of India. It is also stated as per instructions, in case of heinous crime, the case would be considered after undergoing 12 years of actual sentence and 18 years with remissions and further in simple murder case, after 10 years and with remission 14 years.

Notice of motion was issued and learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that Annexure P-1 is the copy of the Notification of the Government dated 08.07.1991. It is stated therein that the category 'A', pertains to those convicts whose death sentence has been commuted to life and the category 'B', pertains to those convicts, who have been imprisoned for life for offences for which death is a punishment and have committed heinous crime. Then heinous crimes have been explained. Sub-clause (xi) provides that, offence under Section 302 IPC where murder has been committed in

connection with any dispute over dowry and this is indicated in the judgment of the trial Court. Vide impugned order dated 02.08.2013, Principal Secretary to Punjab Govt., Home Affairs and Justice Department held that learned Sessions Judge, Bathinda, has convicted and sentenced the convict to undergo life imprisonment under Section 302 IPC and also imposed a fine of ₹1,00,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of two years and to undergo rigorous imprisonment for a period of two years under Section 201 IPC. It is also held that although the convict has already undergone the requisite period of sentence as per policy for grant of premature release and concerned District authorities have also recommended his case of premature release but this convict had committed murder of his wife Inderjit Kaur for not bringing dowry and gifts at the time of new born child and thus harassed and humiliated his wife, which is very heinous and inhuman crime and in view of this, the case for grant of premature release has been rejected.

Learned counsel for the petitioner placed on the record the copy of the judgment passed by learned Sessions Judge, Bathinda. Though the FIR was also registered under Section 498-A IPC but the present petitioner has been convicted under Sections 302 and 201 IPC. The perusal of the judgment also shows that the main motive for causing murder was not the demand of dowry etc. Rather, the dispute was that sister of deceased namely Rajwinder Kaur, who was sent back to her parents' home, was not giving divorce to brother of the

petitioner. It is in the judgment that Buta Singh had gone to Baho Yatri to again persuade Rajwinder Kaur for her divorce and also threatened that if Rajwinder Kaur did not agree for divorce, then he would eliminate her sister Inderjit Kaur and it is in the judgment that Rajwinder Kaur did not agree.

From the record, I find that in no way, it can be held that murder has been committed for demand of dowry. Rather, the perusal of judgment passed by learned Sessions Judge, Bathinda shows that motive was only to pressurize Inderjit Kaur to ask her sister Rajwinder Kaur to agree for divorce with brother of present petitioner Buta Singh, with whom, she has been married.

In view of the above discussion, I find that findings given in the order dated 02.08.2013 are not correct. Otherwise also, it looks that now the convict even completed the imprisonment period as per notification. Therefore, the impugned order dated 02.08.2013 passed by Principal Secretary to Govt. Punjab is not as per law and the same is set aside.

Therefore, finding merit in the present criminal writ petition, the same is allowed. The respondents are directed to re-consider the matter as per law after considering the period already undergone by the convict-petitioner within two months from receiving certified copy of this order.

February 16, 2016
Vgulati

(INDERJIT SINGH)
JUDGE