IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP No.1389 of 2015 (O&M)

Date of decision: 30th May, 2016

Sukhwinder Singh @ Bittu

… Petitioner

Versus

State of Punjab and others

… Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Karamjit Singh, Advocate for the petitioner.

Mr. Gurveer Sidhu, Asstt. Advocate General, Punjab for the respondent/State.

FATEH DEEP SINGH, J.

Petitioner Sukhwinder Singh @ Bittu has invoked the jurisdiction of this Court under Article 226 of the Constitution of India for his release from detention in jail having become illegal as he has already completed his actual sentence.

The brief facts that calls for reproduction are that FIR No.161 dated 22.09.2004 was got registered under Sections 302/307 IPC read with Sections 25/27 of the Arms Act pertaining to Police Station Patti against the petitioner who was found guilty and convicted in Sessions Case No.64/2004 through judgment of conviction and order of sentence dated 21.08.2006. Against these findings, the petitioner had

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filed a criminal appeal No.CRA-D 350-DB of 2008 before this Court which vide judgment dated 25.01.2012 dismissed the appeal by virtue of judgment (Annexure P1). The petitioner claims that he is in custody since 23.09.2004 and has undergone more than 9 years and 9 months of his actual sentence after deducting parole period and therefore sought his premature release.

The respondent-State in its response by way of written reply has taken a plea based on the records that the petitioner was released on 2 weeks furlough on 01.09.2012 from Central Jail, Amritsar and was to report back on 16.09.2012 but he over-stayed and returned back on 22.09.2012 after more than 6 days, as a consequence of which the Superintendent, Central Jail, Amritsar deducted 10 days earned remission by way of punishment to the petitioner through his orders contained in letter No.9972 dated 06.12.2012. The case of the petitioner was forwarded to the learned Sessions Judge, Amritsar for judicial appraisal and vide orders dated 04.02.2013 contained in letter No.1023 sentence so awarded by the Jail Superintendent was upheld.

Heard Mr. Karamjit Singh, Advocate for the petitioner and Mr. Gurveer Sidhu, Asstt. Advocate General, Punjab for the respondent/State.

Contentions of learned counsel for the petitioner that he has already completed his requisite period entitling him to premature release

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have been rightly controverted on behalf of the State and Mr.Gurveer Sidhu, Asstt. Advocate General, Punjab has in his submissions highlighted the provisions of Para 7 Sub-column 2 of the Policy of the State dated 04.04.2013 wherein it is specifically mentioned that the last five years parole of a person should be without any adverse remarks. Since there has been a default by the petitioner by virtue of which 10 days of earned remissions were deducted by the Superintendent Jail and which was upheld vide order dated 04.02.2013 during judicial appraisal by the learned Sessions Judge and which since then has attained finality. Thus, keeping in view the Policy of the State dated 04.04.2013 and on account of the fact that the petitioner was found guilty within a period of five years from his representation and thus, his entitlement of premature release has not crystallized.

Keeping in view this factual scenario, the petition is hopelessly without any merits and stands dismissed.

(FATEH DEEP SINGH)
JUDGE

May 30, 2016
rps

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