

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

**CRWP No. 1070 of 2016
Date of decision : 21.09.2016**

Veer Bhan

....Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr Sham Lal Bhalla, Advocate for
Mr. Manpreet Ghuman, Advocate
for the petitioner

Mr. D.K. Singla, DAG, Haryana

RITU BAHRI, J.

This criminal writ petition under Articles 226/227 of the Constitution of India is for issuance of directions to the respondents to release the petitioner prematurely under the Premature Release Policy issued by State of Haryana from time to time as the petitioner has completed 15 years 11 months and 12 days of actual sentence of imprisonment and 22 years with remission.

Petitioner was arrested in F.I.R No. 20 dated 10.02.1999 under Section 376(2)(g)/506 read with Sections 148/149 IPC registered at P.S. Sadar, Panipat and was sentenced to undergo life imprisonment vide judgment dated 15.01.2001 (P-1). The appeal filed against the above said judgment was dismissed on 26.04.2006.

On notice, a reply has been filed by State of Haryana and as per custody certificate dated 30.08.2016, the petitioner has undergone actual sentence of 16 years and 10 months but availed parole of 09 months and 03

days and thus he had undergone total sentence of 16 years and 27 days. Reference has been made to CRWP No. 48 of 2014 titled as **Union of India vs. Shriharan @ Murugan and others** whereby Hon'ble the Supreme Court passed order dated 09.07.2014 and restrained all the State Governments from exercising power of remission to all convicts till further orders of Hon'ble the Supreme Court. Thereafter, Constitutional Bench of Hon'ble the Supreme Court of India, vide order dated 23.07.2015, modified order dated 09.07.2014 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 to 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 terms 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 conducted by any Central Investigation Agency like C.B.I.

(iv) where the life sentence is under any central law or under Section 376 of IPC or any other similar offence.”

In reply filed by the State, it has been stated that as per the above condition no. iv, the petitioner is required to undergo 20 years total

sentence, which he has not completed till date and hence, he is not entitled for release at this stage.

However, it has been admitted that the co-accused of the petitioner has been release on interim bail, in compliance of Court order dated 27.05.2016 wherein this Court disposed of the petitioner and held as under:-

“ The present petition is disposed of with a direction to respondent No.1 to consider the case of the petitioner within a period of four weeks from the date of receipt of certified copy of this order for premature release. In case the petitioner is found entitled for premature release, in view of policy applicable to him, he be released. In case, for any reasons, the case of the petitioner is not considered within a period of four weeks from the date of receipt of certified copy of this order, the petitioner shall be entitled to be released on interim bail till the decision is taken in the matter”

In the present case, in the reply filed by the State, it has been admitted that the case of the petitioner is covered by the policy of 2000.

As per custody certificate filed by the petitioner (P-2), he has undergone total sentence of 22 years 04 months and 10 days including remission of 06 years 04 months and 28 days.

Since in similar circumstances, the co-accused of the petitioner has been released on interim bail, who had undergone almost 21 years and 01 month including remission, the present petition is also disposed of with a direction to respondent No.1 to consider the case of the petitioner within a period of four weeks from the date of receipt of certified copy of this order

for premature release. In case the petitioner is found entitled for premature release, in view of policy applicable to him, he be released. In case, for any reasons, the case of the petitioner is not considered within a period of four weeks from the date of receipt of certified copy of this order, the petitioner shall be entitled to be released on interim bail till the decision is taken in the matter”.

21.09.2016

G Arora

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No