

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

Crl. Writ Petition 1126 of 2016
Date of Decision : October 04, 2016

Manpreet Kaur

.....Petitioner

VERSUS

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE GURMIT RAM**

Present : Mr. Aman Dhir, Advocate
for the petitioner.

Dr. Deipa Singh, Addl. A.G., Punjab
for respondents No.1 to 3.

Mr. Baltej Singh Sidhu, Advocate
for respondent No.4.

T.P.S. MANN, J.

Manpreet Kaur wife of Surjit Singh Patwari, who stands convicted under Sections 302/34 and 201 IPC and sentenced to undergo imprisonment for life, has filed the present petition under Article 226 of the Constitution of India seeking quashing of the order dated 16.3.2016 (Annexure P-2) passed by the Inspector General (Jails), Punjab whereby her case for premature release is not being considered as her appeal against her conviction and sentence is awaiting final decision.

It is the case of the petitioner that she has challenged her conviction and sentence by filing an appeal which is pending consideration before this Court. As she had already undergone total sentence of twelve years, eleven months and eleven days including earned remissions of five years and one month, her pre-mature release case was sent for consideration to the Inspector General (Jails) but the same has been declined on the ground that her appeal against her conviction was pending adjudication.

Upon notice, reply has been filed by the Deputy Superintendent of Police, Sub Division Gidderbaha, District Sri Muktsar Sahib on behalf of respondent No.1 wherein it has been mentioned that her premature release case was declined by the Inspector General (Jails) on the ground that the appeal against her conviction was pending before this Court and as such no cause of action accrued to the petitioner to file the present petition.

The issue as to whether the premature release case of the petitioner cannot be considered on the ground that the appeal filed by her against her conviction and sentence is still pending before the High Court, has already been settled by a Division Bench of this Court in **Harjit Singh @ Hare Ram Vs. State of Punjab and others**, 2015 (1) RCR (Criminal) 370 by holding that merely because the convict's appeal against his conviction is still pending is no ground to reject premature release case. The relevant observation is as follows:-

“8. Further, just because a convict has preferred

an appeal before the Appellate Forum exercising his right of appeal, his case for premature release cannot be rejected on the flimsy ground that he has preferred an appeal which is pending disposal. If the case of the convict falls squarely under the instructions issued by the Government of Punjab for premature release, the Government has to consider the case of the convict despite the pendency of the appeal before the Court as to whether he is entitled to be prematurely released.”

It is not in dispute that the petitioner has already undergone sufficient period to be eligible for premature release especially when the authorities themselves had moved her premature release case earlier.

Resultantly, the petition is disposed of by directing the Government of Punjab to consider the case of the petitioner for premature release irrespective of the fact that the appeal filed by her against her conviction and sentence is still pending before this Court.

(T.P.S. MANN)
JUDGE

October 04, 2016
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(GURMIT RAM)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No