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

CRWP-118-2016 (O&M)

Date of Decision: 27.04.2016

BALWINDER KUMAR

Petitioner

VS.

STATE OF PUNJAB AND OTHERS.

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH.

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

Mr. Navdeep Singh, DAG, 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)

The petitioner seeks premature release in terms of the Punjab Government policy dated 08.07.1991 (*Annexure P-1*) and also seeks quashing of the order dated 26.06.2012 (*Annexure P-2*) passed by the Punjab Government, Department of Home Affairs and Justice.

I have heard learned counsel for the petitioner.

A perusal of the order dated 26.06.2012 (*Annexure P-2*), passed by the Punjab Government, Department of Home Affairs and Justice, shows that the case of Balwinder Kumar-petitioner was rejected in view of the Govt. policy dated 08.08.2011. He is not denying the fact that the petitioner has been convicted under Section 302 I.P.C.on 28.10.2002 by learned Sessions Judge, Fatehgarh Sahib. Hon'ble the Supreme Court in the cases titled as *State of Haryana Vs. Jagdish ; 2010 AIR (SC)*

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1690 and State of Haryana Vs. Mahender Singh ; 2007 (4) RCR (Criminal) 909, has taken the view that the policy of remission of the Government prevalent on the date of judgment of conviction is to be applied and not the policy which existed on the date of consideration for premature release case.

It being so the policy of Punjab Government's order dated 08.08.2011 was wrongly applied and the policy as existing on 28.10.2002, when the petitioner was convicted and sentenced, is to be applied.

Hence, the impugned order dated 26.06.2012 (*Annexure P-2*) passed by the Government of Punjab is set aside. The State is directed to consider the case of the petitioner afresh, in the light of the policy existed at the time of his conviction and decide his case, within the period of two months from the date of receipt of the certified copy of this order.

It is further directed that if the case of the petitioner is not decided within two months from the date of receipt of the certified copy of this order, the State shall release him on interim bail to the satisfaction of the concerned learned District Magistrate till the date his case is decided.

In view of the above, the present petition stands allowed.

**[KULDIP SINGH]
JUDGE**

April 27, 2016
Suresh Kumar