

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

CRWP No. 1443 of 2016

Date of decision : December 02, 2016

Ombir

..... Petitioner

v.

State of Haryana and another,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. RA Sheoran, Advocate
for the petitioner.

Mr. Satish Saini, DAG Haryana

Ajay Tewari, J (Oral)

This petition has been filed challenging the action of the Jail Superintendent, Bhiwani in not releasing the petitioner despite the order, Annexure P-2.

As per the order, Annexure P-2, the Governor of Haryana was pleased to remit the unexpired portion of the sentence passed on the petitioner in case FIR No.101, dated 8.3.1995, registered under Sections 304-B, 498A, 201, 406, 34 of the IPC, at Police Station Sadar Bhiwani

subject to the condition that he would furnish to the satisfaction of the

District Magistrate concerned two bonds; one of ₹ 10,000/- to be executed by the petitioner, and the other by two sureties in the like amount.

In the reply, a very strange stand has been taken. It has been stated that the order, Annexure P-2, was only limited to the life imprisonment awarded to the petitioner under Section 304-B of the IPC and could not be extended to the punishment imposed under the other Sections. The second ground taken is that the petitioner has not submitted the surety bonds.

Counsel for the petitioner has argued that a reading of the order, Annexure P-2, does not indicate that only the life sentence imposed upon the petitioner under Section 304-B of the IPC has been remitted and rather the order unequivocally and unambiguously shows that the entire sentence of the petitioner under all the Sections has been remitted. As regards the second reason, counsel for the petitioner has argued that the occasion to furnish sureties/bonds would arise only if the petitioner is released, as per the order, Annexure P-2. The petitioner would obviously be liable to fulfill not only the condition of submitting the surety bonds but all other conditions of the order, Annexure P-2, and would also pay the fine.

Learned DAG Haryana has not been able to justify the stand.

In my opinion, the stand taken by the State is completely unjustified. By this action, the petitioner has been subjected to illegal custody w.e.f 15.10.2016 till date. Consequently, this petition is allowed and the respondents are directed to release the petitioner forthwith after the fulfillment of the conditions mentioned in the order, Annexure P-2.

December 02, 2016
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No