

**281/A IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRWP No. 718 of 2016
DECIDED ON: SEPTEMBER 16, 2016**

GURPARTAP SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB & ORS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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

 Mr. A.S. Sidhu, AAG, Punjab.

JASPAL SINGH, J (ORAL)

By virtue of this petition preferred under Article 226 of the Constitution of India, petitioner has sought issuance of appropriate directions/order to the respondents to initiate and consider his case for the grant of pre-mature release and further to release him on usual terms and conditions, as per the Government Instructions dated July 08, 1991 (Annexure P-1).

In response to notice of motion, learned State counsel has filed reply by way of an affidavit of Ajmer Singh PPS, Superintendent, Central Jail, Hoshiarpur on behalf of respondents No.1 to 3. The same is taken on record.

Para No.1 of the preliminary objections of the reply is relevant for the disposal of instant petition, which reads as under:

“That the present petition is not maintainable. It is submitted that the petitioner Amandeep Singh is undergoing life imprisonment in Central Jail, Hoshiarpur in case FIR No. 21 dated 08.03.1999 u/s 302, 148, 149, 450, 120-B IPC, P.S. Dasuya District Hoshiarpur. On conclusion of the trial of this case, the court of Sh. C.D. Gupta, learned Addl. Sessions Judge, Hoshiarpur vide its judgment dated 23.01.2002 convicted and sentenced the petitioner to undergo rigorous imprisonment for life and to pay fine of ₹5000/- and in default of payment of fine, to further undergo RI for one year u/s 302 IPC. Thereafter, against the judgment dated 23.01.2002, the petitioner preferred Criminal Appeal bearing No. CRA-84-DB of 2002, before the Hon'ble Punjab & Haryana High Court, which was subsequently dismissed on 22.09.2011. The appellant filed Criminal Appeal No. 323 of 2013 before Hon'ble Supreme Court of India against the judgment of Hon'ble Punjab & Haryana High Court passed in CRA No. 84-DB of 2002. The appeal of the petitioner is still pending in Hon'ble Supreme Court of India for final disposal. As per instructions issued by the Principal Secretary to Governor, Punjab vide letter No. PRB-LA-2013 dated 16.04.2013 that keeping in the mind the order passed by Hon'ble Supreme Court of India in the cases of pardons to convicts Narayan Dutt, Manjit Singh and Prem Kumar in SLP Civil No. 11544 of 2008 and 5910 of 2011 and order passed on 10.01.2011, it is decided by H.E. Governor Punjab that all such cases where appeal by the convict or anybody else is pending in any case in any judicial court are not to be put up before his excellency till the matter remains sub judice.”

A glance at the afore-said paragraph reveals that the case of the petitioner has not been put up before the Governor of the State and considered on the ground that his appeal challenging his conviction and sentence is already pending in the Hon'ble Apex Court. In this context, the matter was considered

by this Court in Harjit Singh @ Hare Ram v. State of Punjab and others; 2015 (1) RCR (Criminal) 370, wherein the authority in the case of Narayan Dutt v. State of Punjab; 2011 (2) RCR (Criminal) 140 was considered by the Division Bench of this Court and it was observed as under:

“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 Governor 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.”

A perusal of the observation made in the above-referred judgment makes it crystal clear that the pendency of the appeal preferred by a convict does not debar the concerned authorities for the consideration of the case of convict for his pre-mature release.

The position of the law being so, instant petition is disposed of with a direction to respondents to consider the case of the petitioner for pre-mature release as per the policy applicable to him notwithstanding the pendency of the appeal before the Hon'ble Apex Court. It would be expected from the authorities that final decision in this regard be taken within three months from the receipt of a certified copy of this order.

SEPTEMBER 16, 2016
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(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No