

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

**CRM-W-137 of 2016 in
CRWP No.1740 of 2013
Date of Decision: January 18, 2017**

Piara Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Nandan Jindal, Advocate
for the petitioner.

Mr. Gurveer Sidhu, AAG, Punjab.

FATEH DEEP SINGH, J.

Originally a Criminal Writ Petition No.1740 of 2013

was filed by the present applicant-petitioner Piara Singh, who is presently stated to be lodged in District Jail, Sangrur and the same stood disposed off by this Court vide orders dated 25.2.2016 and essential part of this order is reproduced as below:-

“ Mr. Gurveer Sidhu, Asstt, Advocate General, Punjab has made a statement that the respondent/State would take up the case for premature release of the petitioner with the competent authority and the same shall be disposed off within a period of one month from today.

In view of the undertaking given by learned State counsel, the petition stands disposed off. However, in case the respondent/State fails to abide by its undertaking, the petitioner reserves his right to invoke the jurisdiction of this Court.

It is in pursuance of this very order the then petitioner now applicant-petitioner has moved the instant application seeking prayer for direction to the respondent to release him prematurely as per the policy of the State and further to direct the respondent to abide by its undertaking

by virtue of Annexure A/1.

Upon notice, the State has filed reply by way of short affidavit of Mr. Hardeep Singh Bhatti, Superintendent, District Jail, Sangrur taking a plea that the petitioner during his stay in jail within a period of five years has committed a jail offence in which he has been sentenced to undergo six months imprisonment and to pay a fine of Rs.3000/- and in default thereof to undergo imprisonment for one month and being in violation of para 7(2) of the policy dated 4.4.2013 his case was considered and stood dismissed.

Appreciating the submissions of the two sides, it is the own case of the petitioner-Piara Singh that he was convicted in a case bearing FIR No.418 dated 26.10.2000 under Section 302 IPC pertaining to Police Station, Sunam, District Sangrur, whereby, vide judgment of conviction and order of sentence dated 23.4.2002 he was sentenced to undergo life imprisonment. Appeal against these findings stood dismissed by this Court vide judgment dated 30.08.2010 passed in criminal appeal No.985-DB of 2009. The petitioner claims that excluding the period of parole and furlough he remained confined in jail for more than 13 years of actual sentence and by including remission he had already undergone more than 19 years and that is how he has come up seeking relief in question.

Though, much stress has sought to be laid by the learned counsel for the petitioner that the judgment of conviction was passed by the trial Court on 23.4.2002 and cited the ratio laid down in **2010(2) RCR (Criminal) 464 State of Haryana and others vs. Jagdish** that it is the policy which is prevalent at the time of conviction and not the

policy which exists at the time of consideration of case of his premature release and to further his argument has placed a view of this Court laid down in **2014(2) RCR (Criminal) 940 Kamal Kant Tiwari vs. State of Punjab and others** the same could not be assailed by any means by the learned State counsel, thus, the policy dated 8.8.2011 Annexure P/1 filed with the main petition needs to prevail in the case of the petitioner. However, as has been argued by the learned State counsel and is well before this Court that by virtue of para 7(2) of the Policy makes it emphatically clear that before making such an order of premature release it needs to be taken note as to the conduct of the prisoner for the last 05 years immediately before passing of the order for premature release. It is the case of the State that as per the Jail roll dated 22.4.2016 accompanying the impugned order passed by the Department of Home Affairs and Justice the convict-petitioner has undergone actual sentence of 15 years and 03 months including remissions but excluding the parole comes to 17 years, 02 months and 03 days and in addition thereto his jail conduct reflects that an FIR No.162 dated 29.05.2014 under Section 32-A of Prison Act has been registered against the convict and he has been sentenced to undergo imprisonment for 06 months and to pay a fine of Rs.3000/- and in default thereof to further undergo imprisonment for 01 month. Apparently, learned counsel for the petitioner could not controvert this stand of the State by any means. Since apparently petitioner by this, evidently has committed jail offence and mandatory five years period having not expired and which as per the own admission of the learned counsel for the petitioner the order as on date holds good and has never been set aside certainly to the mind of the

Court does not qualifies the provisions of this policy of the State applicable to the case of the petitioner. It would not be out of place to refer here as is there in the own pleadings of the petitioner that he is found guilty for murder of his own wife as well as murder of 13 years old boy name Beeru Khan are matters of much significance. Thus, the very existence and purpose of such provisions duly established by the State and which is for a definite object and purpose stands frustrated by such a conduct attributed to the petitioner and, thus, his case does not deserves any compassion and it is so held by the competent authority vide impugned order and nothing arbitrary and whimsical could be pointed out. Even by other means in case of adults like the petitioner he has been found guilty of commission of heinous crime and his criminal conduct and jail offence during this period are matters which weigh heavily in the mind of the Court and is covered under Part-b of the policy which imposes a condition of minimum 20 years of sentence having been undergone. As the petitioner happens to be an adult and neither his conduct is satisfactory during the last 05 years are matter adverse to the sympathetic consideration of the case of the petitioner. Thus, in the light of the same no ground is made out for allowing the present petition and the same as such stand dismissed.

(FATEH DEEP SINGH)
JUDGE

January 18, 2017
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No