

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

CRWP No.1082 of 2014 (O&M)

Date of Decision: May 04, 2017

Madan Lal alias Pappu

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Suram Singh Rana, Advocate
for the petitioner.

Mr.V.P.S.Sidhu, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The petitioner has filed this criminal writ petition under Article 226 of the Constitution of India praying for issuance of an appropriate order or directions, directing the respondents to release the petitioner forthwith prematurely on usual terms and conditions as per Govt. Instructions dated 08.07.1991 and for setting aside reply dated 05.06.2014 (Annexure P-3) submitted in response of mercy petition.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that as per Annexure P-3,

Superintendent, Central Jail, Patiala, wrote a letter to Advocate of the petitioner that as per Notification and Punjab Jail Manual, premature release cannot be considered. It is written in this letter that as per Punjab Jail Manual para No.431(B), the cases of premature release will only be considered provided that convict has maintained good conduct in jail. For that purpose, good conduct means that convict has not committed any jail offence for a period of five years prior to the date of his eligibility for consideration for release. It is also written in this letter that convict has undergone actual sentence of 8 years 10 months 19 days upto 20.05.2014 after deduction of the parole period. His total custody period is 9 years 10 months 9 days.

As per custody certificate placed on record by learned State conclusion, which is Annexure R-1, the custody period of present petitioner is stated to be 14 years 10 months and 14 days and actual custody period is 14 years 2 months 17 days.

Learned counsel for the petitioner relied upon the law laid down by this Court in ***Kamal Kant Tiwari vs. State of Punjab and others, 2014(2) RCR (Criminal) 940***, in which it is held as under:-

“10. This practice of the jail authority of not forwarding his case to the State Government for consideration is to be depreciated because they have limited role of forwarding a case to the competent authority for consideration along with all the facts available on file. They cannot assume the role of deciding as to whether the convict's case can be allowed or not. Respondent No.2 must look into this aspect and take immediate and appropriate action to avoid the recurring of such lapses in future.”

In the present case also, the case of the petitioner has not been forwarded by the Superintendent, Central Jail, rather, he has decided the

case by stating that the case of the petitioner cannot be considered and has not forwarded the same to the competent authority.

In view of the law as stated above, I find that the Superintendent, Central Jail, Patiala, should have forwarded the case of the petitioner to the competent authority to consider it as per law. Therefore, the letter/order dated 05.06.2014 of the Superintendent, Central Jail, Patiala, not forwarding the case of the petitioner to the competent authority, is not as per law and the same is set aside. The Superintendent, Central Jail, Patiala, is directed to forward the case of the petitioner to the competent authority within two months from the date of receiving of certified copy of this order and the competent authority will consider the case of the petitioner as per law.

The present petition stands allowed accordingly. All pending criminal misc. applications also stand disposed of with the main case.

May 04, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No