

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

**CRWP-1822-2015 (O&M)
Date of decision: 22.02.2017**

Harbans Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

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

Mr. J.S. Sekhon, AAG, Punjab.

Ritu Bahri, J.

Petitioner is seeking direction to the respondents to release him by granting the benefit of special remission.

A criminal case bearing FIR No.23 dated 27.06.1988, under Sections 304-B/498-A IPC was registered against the petitioner and his co-accused namely Chint Kaur at Police Station, Bassi Pathana. In that case, vide judgment dated 05.08.1996 passed by the trial Court, the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of seven years under Section 304-B IPC and for three months under Section 498-A IPC. Against the said judgment and order of sentence, the petitioner preferred an appeal i.e. CRA-S-560-SB-1996, which was dismissed qua him. Thereafter, he challenged his conviction before Hon'ble the Supreme Court by filing CrI. Appeal No.820 of 2008 and vide order dated 27.11.2013, the matter was remanded back to this Court to decide the same afresh. Ultimately, vide order dated 15.05.2015 (Annexure P-1) passed by

this Court, appeal of the petitioner had been dismissed. Now, petitioner is seeking direction to the respondents to release him by granting the benefit of special remission.

Upon notice, reply on behalf of respondent Nos. 1 to 3 has been filed, wherein it has been stated that vide judgment dated 05.08.1996, the petitioner was convicted and sentenced to undergo rigorous imprisonment substantially for a period of seven years for commission of offences under Sections 304-B/498-A IPC. The petitioner remained confined at Central Jail, Patiala from 27.06.1988 to 30.07.1989 as undertrial. After conviction, he was again admitted at Central Jail, Patiala on 05.08.1996 and thereafter, released on bail on 11.09.1997. The conviction of petitioner was upheld by this Court vide judgment dated 08.05.2007. Thereafter, he was admitted at Maximum Security Jail, Nabha on 13.08.2007 and was later on, released on bail on 23.04.2008 in compliance with the order passed by Hon'ble the Supreme Court. Now, the petitioner has been confined in jail since 08.12.2015.

After dismissal of his appeal by this Court on 15.05.2015, he was sentenced to undergo remaining part of the sentence. Re-arrest warrants of the convict-Harbans Singh were issued for 28.08.2015. Finally, on 08.12.2015, he surrendered before the Court and was sent to jail.

As per custody certificate (Annexure R-1), details of his undergone period has been given as under:-

Custody Period	Years	Months	Days
CUSTODY AS UNDER TRIAL 27.06.1988 to 30.07.1989	1	1	3
CUSTODY AFTER CONVICTION 05.08.1996 to 11.09.1997	01	01	06
13.08.2007 to 23.04.2008	00	08	10
08.12.2015 to 23.09.2016	00	09	15
(c) LESS PAROLE PERIOD	0	3	11

Custody Period	Years	Months	Days
Actual Custody after Conviction	2	3	20
TOTAL ACTUAL PERIOD UNDERGONE	3	4	23

The petitioner has been granted the benefit of remission for one month as per notification dated 01.10.1996; seven months as per notification dated 15.12.1996; one year as per notification dated 13.02.1997; six month as per notification dated 14.08.1997 and further six month as per notification dated 11.08.2016. In this manner, total undergone period, including remission, as on 23.09.2016 comes to be 06 years, 04 months and 03 days.

Learned counsel for the petitioner states that as per notification dated 01.10.1996, the petitioner was entitled to be given the benefit of two months' remission.

The contents of this notification have not been disputed by learned State counsel.

In this view of the matter, this petition is disposed of by giving direction to the respondents to give the benefit of remission of two months to the petitioner as per notification dated 01.10.1996 instead of one month, as he has actually undergone 03 years, 04 months and 23 days as per custody certificate (Annexure R-1) and thereafter, pass an appropriate order with regard to release of the petitioner when he completes 07 years.

22.02.2017
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No