

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

**CRL. WRIT PETITION No.1147 OF 2016
DATE OF DECISION : 26th MAY, 2017**

Balwinder Kumar

.... Petitioner

Versus

State of Punjab & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Suram Singh Rana, Advocate for the petitioner.
 Mr. Daljeet Singh Virk, DAG, Punjab.

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A. B. CHAUDHARI, J. (ORAL)

Rule.

Heard forthwith with consent of learned counsel for the rival parties.

Learned counsel for the petitioner has relied on the decision of this court in the case of *Kamal Kant versus State of Punjab & others*, reported as *2014(2) RCR (Criminal) 940*. This court held thus in paragraphs 12 and 13 which are quoted as following:

“12. This fact is not disputed that the case of premature release of a life convict is governed by the policy of the Government prevailing on the date of judgement of conviction and not by the policy which exits on the date of consideration of his premature release. The reference in this regard can be made to the observations in *State of Haryana V. Jagdish, 2010 (2) RCR (Criminal) 464 : 2010 (4) SCC 216*.

The matter as to whether the jail offence is a ground to deny the premature release to a life convict was considered in the case of ***Raj Kumar v. State of Punjab etc.***, (supra) wherein it was observed as follows:

"The counsel for the petitioner has relied on a judgment of this Court in the case of ***Subhash v. State of Haryana, 1994(3) Recent CR 489*** to urge that commission of jail offences would be no legal or valid ground to deny the concession of premature release if it has become due, specially so when the convict had already been punished for the jail offences. While so holding, this Court in Subhash's case (supra) has relied on the case of ***Lila Singh v. State of Punjab, 1988(1) RCR 28***. It was held that jail offences committed by the convict for which he has already been punished, cannot be taken into consideration while deciding the case for premature release. Admittedly, the case of the petitioner for consideration on his premature release has been declined on the ground that the same can be considered only if the convict has maintained a good conduct in jail. As per the reply, good conduct means that the person has not committed any jail offence for a period of five years prior to the date of his eligibility for consideration of release. It is accordingly pleaded that the benefit of premature release cannot be granted to the petitioner as his case is not covered by the instructions, as afore-

mentioned. The stand of the State cannot be appreciated being contrary to the law laid down by this Court. The case of the petitioner is fully covered by the judgment of this Court, referred to above. It has been clearly held by this Court that commission of a jail offence is no legal ground to deny the premature release, especially when the person has been punished for such a misconduct. Accordingly, the action of the respondents in not considering the case of the petitioner for premature release cannot be sustained. The petitioner is entitled to a consideration of his case for premature release in terms of the instructions, Annexure P-1.”

In view of the above, the petition is disposed of with direction to the State authorities to reconsider the issue in the light of the law laid down by this Court as above. The same shall be done in any case before 30.06.2017.

This order shall be communicated to the jail authorities as well as to the petitioner. If the order is not passed by 30.06.2017, the State Government will have to deposit cost amount of ₹50,000/- in this Court.

Copy of this order by supplied to learned State counsel under the signatures of Bench Secretary.

26th MAY, 2017
‘raj’

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned : *Yes* *No*

Whether Reportable : *Yes* *No*