

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

**Criminal Misc. No.M-1490 of 2016 (O&M)
Date of Decision: November 10, 2017**

Raja @ Rajender

.....PETITIONER(s).

VERSUS

State of Haryana and others

....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Varinder Singh Rana, Advocate
for the petitioner (s).

Mr. Amrik Narwal, D.A.G., Haryana.

SURINDER GUPTA, J.

In this petition filed under Article 226 of Constitution of India, petitioner has sought setting aside the order dated 13.06.2016 passed by Government of Haryana declining the grant of pre-mature release of the petitioner on completion of 14 years of imprisonment including undertrial period.

The petitioner was convicted for the offences punishable under Sections 302 and 201 of Indian Penal Code (for short-IPC) vide judgment dated 30.09.2006 and sentenced to undergo imprisonment for life for the offence punishable under Section 302 IPC. While considering the premature release as per policy of 2002 (applicable to the case of petitioner), the State Government agreed with recommendation of State

Level Committee and observed as follows:-

“This life convict had committed the murder in a brutal manner as he dragged the deceased. As per para 03 of the Trial Court judgment, accused Raja Ram himself admitted before police that he took Het Ram to the tea stall and then he brought the deceased in his Nohra on the pretext that he had called a girl and he (deceased) should keep watch there. He further stated that he caused a blow with a Chhura (cutting instrument) on the neck of Het Ram at about 10 or 10-30 P.M. in his Nohra. Het Ram tried to escape but he chased him. Het Ram fell down in front of the house of Mahender Singh. Then, he caused several blows with the 'Chhura' on his chest, waist and then wanted to take him back to his Nohra while dragging but he could not drag him up to the Nohra and left him in front of the house of Mohan Lal. Thereafter, he went to his father and sought his help in the disposal of the dead body. Then his father Krishan Lal joined him. They put dead body of Het Ram in a sheet made of plastic kattas, loaded the bundle of dead body in their bullock cart and threw the dead body in the well. The Committee has recommended that murder has been committed in a brutal manner and dead body has been dragged and his case is covered under para 2 (a)(x). Para 2 (a)(x) a convict committing murder exhibiting brutality such as cutting the body into pieces or burning/dragging the body as evident from the judgment of the Court. Such convicts are required to undergo 14 years of actual sentence including undertrial period, provided that the total period of such sentence including remission is not less than 20 years.”

Learned counsel for the petitioner has argued that pre-mature release to the petitioner after completion of imprisonment of 14 years has

been declined on the ground that his case falls under the category of heinous

crime. While referring to the observation of Co-ordinate Bench in case of ***Vijay Vs. State of Haryana and others CRWP-642-2015 (decided on 17.09.2015)***; and ***Anil Vs. State of Haryana and others CRWP-1371-2014 (decided on 03.06.2016)***, he has argued that every offence of murder is a heinous crime, which cannot be further categorized to adopt different parameters for considering the case of the convict for premature release.

I agree with the submission of learned counsel for the petitioner that every offence, where a person has been murdered, is a heinous crime. However, petitioner is seeking his premature release as per policy of 2002 (Annexure P-1) which lays down certain parameters for considering the case of a convict for his premature release, who has been awarded sentence of life imprisonment after a particular period of his imprisonment. As per this policy, the case of convict, who has been awarded death sentence, which has been converted later on to life imprisonment, may be considered after completion of 20 years of actual imprisonment and 25 years of total sentence with remissions. The State has also laid down categories of heinous crime, where the case of convict may be considered after completion of 14 years of actual sentence including undertrial period provided the total period of such sentence including the remission is not less than 20 years. This category includes murder exhibiting brutality such as cutting the body into pieces or burning/dragging the body (as mentioned in para 2 (a)(x)). It is to be seen from perusal of the judgment of the trial Court as to whether case of the petitioner falls in the above category. Learned trial Court has relied on the disclosure statement of petitioner (Ex.PEE), wherein he has admitted that he took Het Ram to the tea-stall

and then he brought him (Het Ram) in his Nohra on the pretext that he had called a girl and he (Het Ram) should keep watch there. He further stated that he caused a blow with a *Chhura* (cutting instrument) on the neck of Het Ram at about 10 or 10-30 P.M. in his Nohra. Het Ram tried to escape but he chased him. Het Ram fell down in front of the house of Mahender Singh. Then, he caused several blows with the '*Chhura*' on his chest, waist and then wanted to take him back to his Nohra while dragging but he could not drag him up to the Nohra and left him in front of the house of Mohan Lal. Thereafter, he went to his father and sought his help in the disposal of the dead body. His father Krishan Lal joined him and they put dead body of Het Ram in a sheet made of plastic kattas, loaded the bundle of dead body in their bullock cart and threw it in the well.

Keeping in view the observations in the judgment, State Level Committee and the competent authority have rightly observed that case of the petitioner falls under para 2 (a)(x) of 2002 Policy and his case may be considered for premature release after completion of 14 years of actual imprisonment provided that the total imprisonment including remissions is not less than 20 years.

This argument of learned counsel for the petitioner that heinous crime cannot be sub categorized for consideration of premature release, has no relevance or call for any discussion as the petitioner is claiming benefit under the Policy as it is, without challenging its legality and validity. No doubt, all crimes of murder of a person are heinous crime but while framing the policy, State, keeping in view the nature and gravity, has put certain types of such crimes in a category where the case for premature release

could be considered after completion of 25 years of imprisonment or 20 years of imprisonment. The petitioner is bound by the terms and provisions of the policy.

As a sequel of my above discussion, I find no legal infirmity in the order dated 13.06.2016.

This petition has no merits. Dismissed.

(SURINDER GUPTA)
JUDGE

November 10, 2017
Sachin M.

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***