

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

CRWP-445-2017 (O&M)

Date of decision: 03.11.2017

Anil

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Sandeep Goyat, Advocate for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Jitendra Chauhan, J. (Oral)

By filing the present petition under Sections 226/227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, the petitioner seeks issuance of a writ in the nature of certiorari for quashing of impugned order dated 08.11.2016 (Annexure P5), passed by respondent No.2 whereby the claim of the petitioner for grant of pre-mature release has been rejected.

The learned counsel for the petitioner contends that respondent No.2 has wrongly considered the case of the petitioner under Para 2(a) (xii) & (xiv) of the pre-mature release policy whereas the same ought to have been considered under Clause/para 2(b) of the above said policy. He further states that the petitioner has undergone actual sentence of about 16 years and 19 years and 10 months with remissions. Even in earlier petition filed by the petitioner, this Court has observed that the

case of the petitioner ought to have been considered under Clause 2(b) of the Policy, whereby a convict is required to undergo 10 years of actual sentence and not less than 14 years with remissions, however, despite that the authorities concerned have not considered the case of the petitioner and erred in passing the impugned order dated 08.11.2016. He further states that the petitioner has availed parole number of time and never misuse the same. He has also been acquitted in FIR No.390 dated 11.05.2013, registered under Section 42 of Prison Act, at Police Station Civil Lines, Hisar, vide judgment dated 04.03.2015.

On the other hand, the learned State counsel opposes the prayer of the petitioner and contends that the plea of the petitioner for premature release has been rejected by the competent authority on the ground that “the petitioner has committed a very heinous crime and is involved in two other cases of Prison Act. The petitioner has undergone 19 years and two months and presently, he is on six weeks' parole till 21.11.2017.

Heard.

The petitioner is seeking premature release in FIR No. 264 dated 24.10.2001, registered under Sections 302, 376(g), 201 and 120-B of IPC, at Police Station Sadar, Hansi. The petitioner was convicted and sentenced to life imprisonment under Section 376(1)(g) of IPC. A perusal of impugned order dated 08.11.2016 indicates that case of the petitioner has been declined as the petitioner has committed a very heinous crime and is involved in two other cases of Prison Act. The petitioner has

committed gang rape with a helpless girl and in order to destroy evidence, the girl was brutally killed and was partially burnt. The act committed by the petitioner falls under the category of heinous crime. As per para 2(a) (xii) and (xiv) of the Policy, convicts who cannot for some indefinite reasons be prematurely released without danger to public safety and any other crime that the State level Committee considers to be heinous for reasons to be recorded in writing and their case may be considered after completing of 14 years of actual sentence and not less than 20 years with remissions. The petitioner has also committed jail offence. Therefore, in view of the above facts and circumstances of the case, this Court feels that the case of the the petitioner has been rightly dealt with and rejected by the competent authority. Since the petitioner is a convict in a heinous crime, this Court is not inclined to accept the prayer made in the present petition.

Dismissed.

03.11.2017
sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No