

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

CRWP-543-2017

Date of decision: 12.10.2017

Bijender Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Rahul Vats, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

Petitioner – Bijender Singh, an accused in FIR No.922 dated 5.11.2004 for offences under Sections 302/34 IPC, registered with Police Station City, Palwal, Haryana (then District Faridabad, Haryana), who was tried by the Court of learned Additional Sessions Judge (1), Faridabad and convicted, resultantly sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for six months vide

judgment/order dated 8.8.2006/10.8.2006 and who was sent to District Jail, Faridabad to undergo the sentence has filed the present petition under Article 226 of the Constitution of India praying for issuance of an appropriate order or directions to the respondents to release him prematurely on usual terms and conditions since his case covered by judgments passed by this Court in cases *Raj Kumar Versus State of Punjab and others, 2004(2) R.C.R.(Criminal)160* and *Anil Versus State of Haryana and others, 2016(3) Law Herald 2451* and law laid down by Honble Apex Court since a number of prisoners from jail, who had committed more heinous crime than the petitioner had already been granted that benefit.

According to the petitioner although he had filed an appeal against the judgment of his conviction and order of sentence passed by the Court of Sessions, but the same was dismissed by this Court; that his work and conduct is good and satisfactory; that he has undergone 11 ½ years of actual sentence of imprisonment, whereas there is requirement of a life convict undergoing 10 years out of 14 years with remissions as per Government Policy; that the case of the petitioner for pre mature release was moved but it was dismissed by Additional Chief Secretary to Government of Haryana, Jail Department vide order dated 3.4.2017 observing that petitioner was not entitled to such concession in terms of Para 2(a)(x) of Policy dated 12.4.2002 since he has caused murder by burning which is against the settled law laid down by this Court. Therefore, necessary directions be issued to respondents to grant the benefit to the petitioner as prayed for.

On notice, respondents appeared and filed reply contesting

the petition. *Inter alia*, it is contended that petitioner along with co-accused Raghubir Singh had committed murder of Mahender Singh, a JBT Teacher by strangulating him and while he was still alive by setting him on fire after pouring kerosene oil upon him on 4.11.2004, regarding which FIR No.922 dated 5.11.2004, under Sections 302/34 IPC, registered with Police Station City, Palwal; that the petitioner was tried, convicted and sentenced for life imprisonment by learned Additional Sessions Judge, Faridabad; that the petitioner cannot claim pre mature release as a matter of right unless the State Government commutes the sentence of a life convict through a written order under appropriate law; that the State Government has framed the pre mature release policies from time to time for consideration of cases of life convicts for their pre mature release; that it is only a concession given by the State Government after considering the behaviour of the convict inside the jail, gravity and nature of offence, manner and circumstances under which the crime was committed etc. In the written reply, reference has been made to **Maru Ram Versus Union of India, AIR 1980 SC, 2147** decided on 11.11.1980 observing that sentence of imprisonment for life is an imprisonment for the whole of the remaining period of the convicted person's natural life, unless the said sentence is commuted by appropriate authority under the relevant provision of the Indian Penal Code and the Code of Criminal Procedure. Reference to another Hon'ble Apex Court judgment has made i.e. **Swami Shardhanand @ Murli Manohar Mishra Versus State of Karnataka (SC) 2008(3) R.C.R.(Criminal) 772**, wherein it was held that it would be the sole discretion of the Government to exercise the power conferred on

it in accordance with law and the convict has no right to claim the pre mature release as life imprisonment means the whole life of a convict in the jail. Reference to Section 433-A of Cr.P.C. has also been made which provided that a convict has to undergo actual sentence of 14 years, if he is convicted in a case in which death penalty is one of the sentence. Therefore, the petitioner has to undergo 14 years of actual imprisonment in jail, which he has not undergone till date. It is submitted that pre mature release case of the petitioner was placed before the State Level Committee for consideration in its meeting held on 27.2.2017, wherein it was observed as under:

“Not recommended as his case is covered under para 2(a)(x)(Murder exhibiting brutality such as cutting the body into pieces or burning/dragging the body as evident) of the policy dated 12.4.2002. This convict committed murder of JBT Teacher by strangulating him and while he was still alive convict set him on fire. As per above para of the policy this convict has not completed his requisite sentence.”

Therefore, the Government had passed the order dated 3.4.2017. According to the respondents, the petitioner has not completed his requisite 14 years actual sentence and 20 years of total sentence including remissions after deducting parole period and that the pre mature release case of the petitioner would be considered after completion of 14 years of actual sentence and 20 years of total sentence as per policy applicable.. The respondents prayed for dismissal of the petition.

I have learned counsel for the petitioner and learned State

counsel besides going through the record and I find that the petition does not have any merit and is doomed for failure.

It is undisputed that no convict can claim pre mature release as a matter of right and it is for the State Government to grant that concession keeping in view the behaviour of the life convict while lodged in jail, the facts and circumstances of the case of the crime committed by him etc. in light of the policies framed. As per the policy formulated by the State Government, such concession cannot be granted to the life convicts, who have committed murder showing brutality. According to respondents, petitioner has committed such type of crime inasmuch as he along with his co-accused had committed murder of a JBT Teacher by strangulating him and while he was still alive, convict set him on fire resulting into his death. There is no reason to differ with the respondents on this point. As regards the authorities referred to by learned counsel for the petitioner i.e. **Raj Kumar Versus State of Punjab and others** (supra) by a Co-ordinate Bench of this Court which was a case where the petitioner has committed murder of his wife by sprinkling kerosene oil. It was not held to be a ghastly murder and petitioner was found entitled to pre mature release as per Government Instructions for the reason the petitioner had arrived at the scene unarmed and it did not appear to be premeditated act. The petitioner was not shown to have acted in unusual cruel manner, whereas it is not in the present case. Similarly, the facts and circumstances of the other case cited as **Anil Versus State of Haryana and others**(supra) by a Co-ordinate Bench of this Court were also different.

I do not see any reason to set aside the order passed by the

respondents and issue directions for pre mature release of the petitioner.

Finding no merits in the petition, the same stands dismissed.

12.10.2017

Brij

(H.S.MADAAN)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No