

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

CRWP-734-2017

Date of decision: 13.10.2017

Baljinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present: Ms.Bhupinder Kaur Brar, Advocate
for the petitioner.

Ms.Samina Dhir, DAG, Punjab.

H.S. MADAAN, J.

Petitioner – Baljinder Singh, a life convict lodged in Central Jail, Bathinda has filed the present petition craving for issuance of directions to respondents – State of Punjab and Superintendent, Central Jail, Bathinda to release him forthwith for the reason that he has already completed the required sentence.

According to the petitioner, he was arrested in case FIR No.265 dated 6.8.1994, under Section 18 of NDPS Act, 1985, Police

Station Sadar, Ludhiana; that he was sent up to face trial, which ended in his conviction and he was sentenced to undergo imprisonment for 12 years and to pay a fine of Rs.1,00,000/- by Additional Sessions Judge, Ludhiana vide judgment dated 27.9.2009.; that he had preferred an appeal in this Court, which was dismissed on 16.2.2010, though sentence of imprisonment was reduced to 10 years; that similarly he was arrested in case FIR No.232 dated 12.7.2005, under Section 15 of NDPS Act, Police Station Jagroan and was forwarded to face trial, which culminated in his conviction and he was sentenced to undergo imprisonment for 10 years and to pay a fine of Rs.1.00,000/- by Judge, Special Court, Ludhiana vide judgment dated 16.12.2008; that he had challenged that judgment also in this Court but was unsuccessful and his appeal was dismissed vide order dated 12.8.2013. According to the petitioner, he had moved an application under Section 427(2) for sentences in both the cases to run concurrently, which was allowed by this Court; that petitioner was released on parole in 2013 but he could not surrender back; that jail authority had lodged an FIR No.98 dated 29.5.2014, Police Station Moga, under Sections 8/9 of Punjab Good Conduct Act, 1962; that he was readmitted in Central Jail, Bathinda on 7.5.2015 in another case FIR No.33 dated 4.5.2015 under Section 15 of the NDPS Act, Police Station Kot Fatta, District Bathinda, however, in that case petitioner was granted bail by this Court vide order dated 11.1.2016. According to the petitioner, the jail authorities are not counting his custody from 7.5.2015 to 11.1.2016, which is in violation of Para No.347 of the Punjab Jail Manual, 1996, in that way, he has completed sentence in all the three cases, which were ordered to run

concurrently by this Court and in jail offence case, the petitioner was sentenced to imprisonment already undergone by him vide order dated 10.3.2017 by Chief Judicial Magistrate, Moga; that conduct and behaviour of the petitioner inside the jail remained highly satisfactory, therefore, petition be allowed and necessary directions be issued to respondents.

On notice, the respondents appeared and filed written reply contesting the petition, therein they have raised preliminary objections that petitioner was convicted and directed to undergo rigorous imprisonment for different terms in different cases. As far as sentence in FIR No.243 dated 10.9.1989, the petitioner is said to have been already undergone the actual sentence though not paying fine. In FIR No.265 dated 6.8.1994, under Section 18 of the NDPS Act, PS Sadar, District Ludhiana, he is said to have undergone the sentence though not paying the fine. Regarding case FIR no.232/2005 under Section 15 of NDPS Act, he was sentenced to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.1.00,000/- and in default thereof, to further undergo rigorous imprisonment for six months. His appeal was dismissed by this Court. He has not yet undergone actual sentence of the case and had not paid the fine. According to the respondents, the petitioner is convicted and sentenced in other cases also, which are as follows:

- 1) To undergo R.I. For the period already undergone 1 case FIR No.445/02, under Section 224 IPC, Police Station Division No.5, Ludhiana.
- 2) To undergo R.I. For one year and pay a fine of Rs.500/- in default, to undergo R.I. For 10 days in

complaint case under Section 8(2) 9 of PGCCR Act on 1.10.2011.

- 3) To undergo R.I. for a period of already undergone in case FIR No.98 dated 29.5.2014, under Section 8/9 PGCPTR Act of Police Station City, Moga on 14.3.2017.

On merits, the assertions in the preliminary objections are reiterated while craving for dismissal of the petition.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

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 version of the respondents, the petitioner was released on four weeks parole on 26.4.2013 which was up to 25.5.2013. He was required to surrender immediately thereafter but he did not do so and rather had absconded till 6.5.2015. In that way, he has to undergo sentence for that period and also for the period of overstay. I do not find anything wrong with such strand of the respondents. The petitioner cannot take advantage of his own wrong i.e. failing to surrender in the jail after availing concession of parole and rather absconding for a considerable period. He cannot insist that the period for which he was on parole and was on run till his return to the jail be also taken into account for the purpose of considering his case for pre mature release. Therefore,

no ground is made out to issue any direction to respondents to release the petitioner from custody forthwith.

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

13.10.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No