

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

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**CRWP No. 1127 of 2016
Decided on: 08.01.2018**

Rajesh

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Arun Kumar, Advocate for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for issuance of writ of Habeas Corpus for premature release of the petitioner as per the Haryana Government Policy (Annexure P-2).

Counsel for the petitioner submits that the petitioner was convicted in FIR No. 272 dated 21.04.1997, P.S. Sadar Jind, U/s 148, 302, 307, 448, 449, 323, 324, 325/149 of IPC and Arms Act and vide order dated 13.10.2003, the petitioner was sentenced to undergo life imprisonment and the appeal filed by him was dismissed.

Counsel for the petitioner further submits that as per the policy dated 12.04.2002, the petitioner is entitled to be prematurely released as he has completed the requisite sentence as per the policy.

Counsel for the petitioner with reference to para 2(b) of the policy has submitted that in case of the petitioner needs to be considered after completion of actual sentence including the under trial period of such sentence including remission which is not less than 14 years. Counsel for the petitioner submits that co-accused of the petitioner namely Hoshiara Singh and Prem Singh have already been prematurely released by

the respondent Authority by considering their case under para 2(b).

Counsel for the petitioner has further submitted that in the impugned order dated 28.02.2014 the only reason given is that the case of the petitioner fall under para 2(a) (xii) of the policy dated 12.04.2002 and no explanation has been given as to why his case is not considered under para 2(b).

Reply by way of affidavit of Inspector General of Prisons has been filed in which it is stated that the petitioner cannot claim premature release as a matter of right and it is further stated that case of the petitioner was considered under para 2(a) (xii) for the reasons that he has committed jail offence on 02.07.2000 by causing injuries to a co-prisoner and an FIR was registered against him. However, he was acquitted by the Additional District and Sessions Judge, Jind on 01.12.2005. It is further submitted that on 29.03.2009 the petitioner surrendered one day late after availing the parole and in this regard a warning was issued by the Superintendent of Jail. It is also stated that on 12.02.2010 the petitioner absconded from furlough and was later on arrested after 2 years, 1 month and 21 days and in this regard an FIR No. 90 dated 27.02.2010 under Sections 8/9 of the Parole Act was registered in Police Station City Jind. The petitioner has already undergone the sentence as per the judgment dated 03.12.2012 passed by the Additional Chief Judicial Magistrate, Jind.

In view of the above, it is submitted that case of the petitioner could not be considered on parity with the aforesaid two accused namely Hoshiara Singh and Prem Singh.

Vide order dated 01.08.2017, the respondent was directed to file an additional affidavit in this regard and in the additional affidavit it is

stated that since the conduct of co-accused Hoshiara Singh son of Dunigar was found to be satisfactory, his case was considered under para 2(b) of the aforesaid Policy and in view of the aforesaid three instances the case of the petitioner is to be considered under para 2(a)(xii) as there is a danger to public safety.

In reply, counsel for the petitioner has relied upon 'Balwant Singh Vs. State of Haryana, 1995 (3) RCR (Criminal) 322', wherein this Court has quashed the order passed by the jail authorities declining premature release on the ground that he has over-stayed the period of furlough/parole.

It is further submitted that since the petitioner was acquitted in the FIR relating to jail offence and has already undergone the sentence in the second FIR regarding over-stay in case of furlough, he cannot be held that the premature release of the petitioner will amount to danger to public safety.

Counsel for the petitioner has further referred to the operative part of the affidavit filed by the Inspector General of Prisons, where the details of the parole availed by the petitioner is given. It is submitted that the petitioner has availed the parole for a period more than 1 year 3 months excluding the period of furlough as referred above and during this period, there was no complaint from any person regarding any danger to public safety when the petitioner was out of judicial custody and he was not involved in any FIR.

In view of the above, this petition is disposed of with a direction to respondent No. 2 to reconsider the case of the petitioner for premature release in terms of the instructions dated 12.04.2002. The

respondent No. 2 shall pass a fresh order within a period of four weeks from the date of receiving the certified copy of this order.

(ARVIND SINGH SANGWAN)
JUDGE

08.01.2018
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No