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

CWP No.10451 of 2018

Date of decision: September 28, 2018

Roshan alias Rustam Bala

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Randeep S. Dhull, Advocate,
for the petitioner.

Ms. Safia Gupta, AAG, Haryana.

Rakesh Kumar Jain, J.

The petitioner has prayed for the issuance of a writ in the nature of *certiorari* for quashing the order dated 22.08.2017 by which his prayer for his premature release has been declined.

In brief, the petitioner was tried in a criminal case registered vide FIR No.31 dated 25.04.2000, under Sections 302/34 IPC at Police Station Alewa, District Jind and was convicted and sentenced by the Additional Sessions Judge, Jind on 27.05.2003 for life imprisonment. The appeal filed by the petitioner against his order of conviction and sentence was also dismissed by this Court on 15.02.2012.

The petitioner had applied for his premature release in terms of the policy dated 12.04.2002 but his case has been declined vide the impugned order dated 22.08.2017.

Counsel for the petitioner has submitted that though it has been noticed in the impugned order that the petitioner has suffered actual sentence of 11 years and total sentence of 14 years with remissions but he has not been

released on the ground that his case falls in Clause 2(a)(xii) of the policy dated 12.04.2002 because the petitioner had remained involved in 7 other criminal cases. It was, thus, observed in the impugned order that the case of the petitioner would be considered for his premature release after completion of 14 years of actual sentence and 20 years of total sentence.

Counsel for the respondents has referred to the seven other criminal cases, as has been mentioned in para no.2 of the preliminary objections, which is reproduced as under:-

- “1. FIR No.68/2000, under Section 392 IPC & Arms Act, P.S. Asaandh-Sentence already undergone & fine of Rs.50/- paid on 04.06.2003.
2. FIR No.121 dated 17.04.2000, under Section 379 IPC, at Police Station Asaandh-Sentence already undergone on 25.07.2006.
3. FIR No.202 dated 30.11.2000, under Sections 224/34/120-B IPC, Police Station City Narwana-Sentence already undergone on 16.07.2005.
4. FIR No.98/2000, U/s 392 IPC, P.S. Sadar Narwana-acquitted on 12.07.2004.
5. FIR No.92/2001, U/s 379 IPC, P.S. MT Panipat-Sentence already undergone on 10.06.2005.
6. FIR No.292/2001, U/s 307 IPC, P.S. City, Jind-acquitted on 01.12.2005.
7. FIR No.130/2004, U/s 398/401 IPC & Arms Act, P.S. Pillukhera, Jind-acquitted on 13.10.2006.”

Counsel for the petitioner has submitted that out of the aforesaid 7 cases, the petitioner has been acquitted in 3 cases and in 4 cases, he has already suffered the sentence. Further, the petitioner has not committed any jail offence in the past five years and, therefore, he should have been released prematurely in terms of the policy dated 12.04.2002.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the case of the petitioner deserves to be reconsidered in view of the fact that out of total 7 cases, he has been acquitted in 3 cases and has already suffered the sentence in 4 cases.

Consequently, the present petition is hereby allowed, impugned order dated 22.08.2017 is set aside and the case is remanded back to respondent no.1 to re-consider the same for the purpose of premature release of the petitioner in view of the observations made here-in-above. The necessary orders in this regard be passed by respondent no.1 within a period of one month from the date of receipt of certified copy of this order.

September 20, 2018
vinod*

(Rakesh Kumar Jain)
Judge

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