

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

CWP No.12510 of 2018
Date of Decision:15.10.2018

Ajay Kumar @ Bonny

. Petitioner

Vs.

State of Punjab and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.S.S. Rana, Advocate,
for the petitioner.

Ms.Lavanya Paul, AAG, Punjab.

RAKESH KUMAR JAIN, J.

The petitioner has challenged the order dated 13.04.2018 by which his prayer for premature release in terms of the Policy dated 08.07.1991 has been declined.

In brief, the petitioner was tried in a case registered vide FIR No.139 dated 26.9.2003 under Sections 302, 148, 149, 449, 120-B IPC at Police Station City, Mansa and was convicted and sentenced for life imprisonment by the Additional Sessions Judge, Mansa on 05.10.2007. CRA-D-930-DB of 2007 filed by the petitioner was dismissed on 15.3.2012. The petitioner has applied for premature release in terms of the Policy dated 8.7.1991, on the ground that his case falls within the ambit of Clause 1.1(C) of the Policy as per which he has to suffer 10 years of actual sentence and 14 years with remission whereas he has already suffered 13 years 2 months and 4 days actual sentence and 17 years 5 months and 1 day sentence with remission as mentioned in the impugned order dated 9.4.2018. The

petitioner had earlier filed CRWP No.1465 of 2017 which was disposed of on 13.12.2017 with a direction to the respondent therein to decide the case of the petitioner expeditiously. In pursuance thereof, the respondents have considered the case of the petitioner against him in view of the recommendations made by the District Magistrate, after obtaining the report from the SSP, Mansa and SHO, PS City-1, Mansa, who had opined that due to registration of case, there is an apprehension to the maintenance of public peace.

In the reply filed by the respondents, it is averred that the petitioner had been committing offences during the period when he was on parole. It is also averred that there are two cases pending against him in which trial is going on i.e. in FIR No.15 dated 14.2.2017 registered under Sections 18/21/61/85 of the NDPS Act at P.S. City-1, Mansa and FIR No.198 dated 23.6.2014 registered under Sections 325/323/353/186/148/149 of the IPC at P.S. City, Sangrur. The petitioner has already undergone the sentence in FIR No.113 dated 8.7.2011 registered under Sections 21/61/85 of the NDPS Act at P.S. City-1, Mansa in which he was convicted on 27.1.2015 for a period of 2 months with fine. It is also averred therein that as per Para No.1.1 (B) of the Policy dated 8.7.1991, the case of the petitioner for premature release would only be considered provided he maintain good conduct in jail and for this purpose good conduct means that he/she has not committed any jail offence for a period of five years prior to the date of being eligible for consideration for release. In this regard, the jail offence, alleged to have committed by the petitioner has been referred to in the FIR No.373 dated 26.11.2013 registered under Section 52A of the Prison Act, 1854 at P.S. City, Sangrur in which he has already undergone the sentence.

Learned counsel for the petitioner has submitted that the jail offence committed by a life convict is not to be considered while considering his case for grant of premature release as the convict has to face the consequences of the jail offence separately. In this regard, he has referred to the decisions rendered by this Court in the case of **“Kamal Kant Tiwari Vs. State of Punjab and others”** 2014(2) RCR (Criminal) 940, **Subhash Vs. State of Haryana”** 1994(3) RCR (Criminal) 489 and in CRWP No.1280 of 2016 titled as **“Jangir Singh @ Jangiara Vs. State of Haryana and others”** decided on 19.12.2016 and a decision rendered by the Supreme Court in the case of **“State of Haryana Vs. Ghaseeta Ram”** 1997(2) RCR (Criminal) 238. It is further submitted that in regard to the likelihood of commission of breach of peace, by committing offence by a convict, the behaviour of the convict and the views of the Local Panchayat have to be taken into consideration. In this regard, the petitioner has attached the Panchayat Nama as Annexure P-3 wherein the Municipal Councillors of Municipal Council, Ward No.16, Mansa have stated that there is no apprehension to the maintenance of public peace and the residents of the area have no danger. As regards his behaviour during the period of parole, the petitioner has been acquitted in both FIR No.145 dated 7.8.2009 and FIR No.98 dated 14.9.2013. He has been convicted only in FIR No.113 dated 8.7.2011 for a period of 2 months.

Thus keeping in view the aforesaid facts and circumstances, I am of the considered opinion that this case requires reconsideration by the authorities concerned in terms of the Policy dated 8.7.1991 and therefore, the impugned order dated 9.4.2018 is hereby quashed and a direction is issued to respondent No.1 to reconsider the case of the petitioner and decide

the same within a period of two months from the date of receipt of certified copy of this order.

15.10.2018
Vivek

(RAKESH KUMAR JAIN)
JUDGE

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