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

CWP No.14741 of 2018

Date of decision: September 28, 2018

Iqbal Singh @ Dinky

...Petitioner

Versus

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 prayed for the issuance of a writ in the nature of *certiorari* for quashing the order dated 24.04.2018 by which his prayer for premature release has been declined.

In brief, the petitioner was tried in a criminal case registered vide FIR No.214 dated 29.06.2014, under Sections 302 IPC at Police Station Civil Lines, Patiala and was convicted and sentenced by the Additional Sessions Judge, Patiala on 16.07.2007 for life imprisonment. The appeal filed by the petitioner against her order of conviction and sentence was also dismissed by this Court on 06.01.2012.

According to the respondents, the petitioner was released on four weeks parole from Central Jail, Patiala on 21.02.2011 and was to surrender back on 22.03.2011 but he was admitted in Central Jail, Patiala by the police on 07.04.2011, i.e. after 16 days and a complaint under Section 8/9 of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962 was made before the Chief Judicial Magistrate, Patiala, in which he was sentenced to

undergo RI for one month on 05.07.2012. The petitioner has, thus, committed a jail offence and was debarred from seeking pre-mature release for the next five years till 01.04.2016. It is further the case of the respondents that on 07.02.2013, intoxicating powder was recovered from the petitioner in Central Jail, Patiala, for which FIR No.44 dated 07.02.2013 was registered against him and he was sentenced as undergone on 14.11.2013 by the JMIC, Patiala. Therefore, it is averred that the case of the petitioner would have to be considered not before 01.03.2018. It is further averred that on 20.05.2014, the petitioner had torn the Hospital Medical Card and intentionally obstructed the work of the Jail Hospital, for which his case was sent to the District and Sessions Judge, Patiala for judicial appraisal, which was allowed on 27.05.2014. Thus, in view of the judicial appraisal dated 27.05.2014, the petitioner would become eligible for seeking premature release only on 01.06.2019, subject to maintaining good conduct till 01.06.2019.

Counsel for the petitioner has submitted that the petitioner has been duly punished for the alleged jail offences committed by him and cannot be visited with the penalty of not considering his case for premature release till the expiry of five years, which amounts to double jeopardy. In this regard, he has relied upon two decisions of this Court rendered in the cases of **Subhash vs. State of Haryana**, 1994(3) RCR (Criminal) 489, **Kamal Kant Tiwari vs. State of Punjab and others**, 2014(2) RCR (Criminal) 940 and a decision of the Supreme Court rendered in the case of **State of Haryana vs. Ghaseeta Ram**, 1997(2) RCR (Criminal) 238.

Counsel for the respondents did not cite any precedent to the contrary.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the case of the petitioner would be covered by the decision of this Court rendered in **Kamal Kant Tiwari's case (supra)**, in which it has been held that the convict has to face the punishment separately for committing the jail offence on the basis of which the case of his premature release cannot be declined.

Thus, keeping in view the aforesaid facts and circumstances, the present petition is hereby allowed, impugned order dated 24.04.2018 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 28, 2018
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(Rakesh Kumar Jain)
Judge

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