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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/11/2018 18:25
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CWP-15227-2018 (O/M)
Date of decision : 2.11.2018

Nirmal Singh

..... Petitioner (s)

Versus

State of Punjab and others

..... Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Akshay Rana, Advocate,
for petitioner.

Ms. Sunint Kaur, AAG Punjab.

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KULDIP SINGH, J.

Petitioner has invoked jurisdiction of this Court under Article 226 of Constitution of India for quashing the order dated 24.10.2016 (Annexure-P-3), passed by respondents, vide which his request for premature release from jail has been rejected.

It comes out that earlier also, petitioner approached this Court by way of filing CRWP No. 147 of 2016, titled as **Nirmal Singh Versus State of Punjab and others**, decided on 3.5.2016, wherein this Court had directed respondents to reconsider the case of petitioner for premature release afresh, in view of judgment of this Court in **Kamal Kant Tewari Versus State of Punjab and others**, 2014 (2) RCR (Criminal) 940. Now, after considering the said judgment, impugned order dated 24.10.2016 (Annexure-P-3) has been passed by respondents.

Petitioner was convicted by learned Sessions Judge, Amritsar, on 6.10.2000 in FIR No. 195, dated 24.8.1999, registered under Section 302 IPC at Police Station Majitha, District Amritsar. According to petitioner,

as per policy of the State Government dated 8.7.1991, he has already undergone more than 10 years of actual sentence and with remissions, more than 14 years. Therefore, he is covered by said policy of State Government and is entitled to premature release from jail.

The State, in the reply, has stated that as per the policy of the Government dated 4.4.2013, last five years record of convict is to be seen. Petitioner was released on parole on 20.12.2013 for four weeks. He was to surrender on 18.1.2014, but he surrendered on 28.1.2014. Thus, he violated the parole/furlough rules of Punjab Government Conduct (Temporary Released) Act, 1962. It is further stated that when he was on bail, he was booked for offences under Sections 498-A, 34 IPC.

I have heard the learned counsel for parties and have also carefully gone through the file.

The learned counsel for petitioner has stated that petitioner had sufficiently explained his delay of 10 days in surrendering before jail authorities after parole. He did not jump the parole. Infact, petitioner alongwith his brother had gone to West Bengal for bringing his wife back to home, where he was booked under Section 498-A IPC and was kept in jail for 18 days. Later on, police found him to be innocent and released him. The judgment of this Court in **Kewal Kant Tewari's** case (supra) pertains to jail offence. The offence under Section 498-A IPC is regarding cruelty to women, which appears to be a domestic dispute of the petitioner within family. Therefore, the same cannot be treated to decline premature release to the petitioner from jail. Even as per the impugned order dated 24.10.2016 (Annexure-P-3), petitioner has already undergone 10 years, 11 months, 15 days of actual sentence and with remissions after deduction of parole period and absconding period during parole, he has undergone 17

years, 7 months, 10 days. Therefore, petitioner is covered by the policy of the Government regarding the period. The offence under Section 498-A IPC, being a domestic dispute, is no ground to decline premature release to petitioner from jail. Except this ground, there is no other ground, on which premature release of petitioner from jail was declined. It being so, impugned order dated 24.10.2016 (Annexure-P-3), passed by respondents, is not sustainable in the eye of law.

As such, impugned order dated 24.10.2016 (Annexure-P-3), passed by respondents, is hereby quashed. Petition is allowed. Respondents are directed to consider case of petitioner ignoring the case registered against him under Sections 498-A, 34 IPC and delay of ten days in surrendering before jail authorities after parole and pass fresh orders within two weeks from the date of receipt of certified copy of this order.

(KULDIP SINGH)
JUDGE

2.11.2018
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No