

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP- 18251-2018 (O&M)
Date of decision: 12.11.2018

Kuldeep Singh @ Keepa

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Jagnahar Singh, Advocate for the petitioner
Mr.Karanbir Singh, AAG Punjab

- 1. Whether Reporters of Local newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J.

Petitioner Kuldeep Singh @ Keepa has invoked the jurisdiction of this Court under Articles 226/227 of the Constitution of India for quashing order dated 19.5.2014 (Annexure P5), whereby his request for premature release under Article 161 of the Constitution of India has been declined. He further prays that he is entitled to premature release.

Petitioner was convicted under Section 364 IPC for life and under Section 397 IPC for seven years for kidnapping of a child. His appeal was dismissed by this Court on 19.12.2018. Petitioner claims that he has undergone more than 9 years 4 months of actual sentence and after including 6 years of remission, the total sentence is 15 years 4 months. Petitioner claims that Section 433-A was added in the Code of Criminal Procedure w.e.f. 18.12.1998 providing that a person sentenced to life imprisonment has to undergo actual imprisonment of 14 years but this

Section was held to be prospective in nature. Punjab Government has framed a policy in the year 1991, in which, there were 5 categories. Petitioner falls under 4th category and he is required to undergo actual imprisonment of 8 years and after remissions 14 years. Petitioner has not committed any jail offence. Earlier, petitioner filed CrI.W.P. No.1779 of 2013, in which, DGP Prisons was directed to consider and decide the representation of the petitioner within one week. Now, the impugned order has been passed, vide which, premature release has been declined. The petitioner has also challenged the grounds mentioned in the order.

The State, in the reply, has reproduced the criminal history of the petitioner, stating that he was also convicted and sentenced in three case as under:-

1. In FIR No.118 dated 27.11.2004 under Section 382/34 IPC, Police Station Bhogpur, Jalandhar convicted by learned Judicial Magistrate First Class, Jalandhar on 30.9.2008 and sentenced to undergo imprisonment for two years and to pay a fine of Rs.500/- and in default of payment of fine further to undergo Rigorous Imprisonment for ten days.
2. In FIR No.303 dated 30.11.2004 under Section 392/34 IPC Police Station Division No.4 Jalandhar convicted by learned Chief Judicial Magistrate, Jalandhar on 19.11.2008 and sentenced to undergo imprisonment for three years and four months.
3. In FIR No.121 dated 7.7.2004 under Sections 392, 342, 427, 506 IPC and 25 A Act, Police Station Division No.1 Pathankot convicted by learned Judicial Magistrate First

Class, Pathankot on 25.4.2011 and sentenced to undergo Rigorous Imprisonment for three years.

While confined in Security Jail, Nabha, following cases were registered against the petitioner:-

1. FIR No.30 dated 2.4.2013 under Sections 13 PC Act, 9, 42, 45 Convict Act, 1894 Police Station Kotwali Nabha
2. FIR Nno.211 dated 11.12.2013 under Sections 27A/ 29/61/85 of NDPS Act, 201/120B IPC Police Station Kotwali Nabha
3. FIR No.84 dated 2.7.2012 under Sections 203, 177, 120B IPC and 25, 27, 54, 59 A Act, Police Station New Baradari Jalandhar.
4. Complaint under Punjab Good Conduct Prisoners (Temporary Release) Act 1962 (over stay parole for 17 days w.e.f. 3.6.2012 to 10.7.2012) in which he was sentenced for 17 days Rigorous Imprisonment.

Therefore, the petitioner is not entitled to the benefit of premature release.

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

The policy dated 8.7.1991 (Annexure P1) shows that the Government is competent to consider the case for grant of remission after the expiry of certain period. The present petitioner is covered under category D, where the person is convicted for life for which death penalty is not punishment. His case was to be considered after he undergoes actual imprisonment of 8 years and 14 years with remissions. One of the

conditions is that the case of premature release is to be considered provided the convict maintains good conduct in jail which means that he has not committed any jail offence for the period of 5 years prior to the date of eligibility for consideration of release as per para 1.1 of the said policy.

After considering the history of the petitioner and the offences committed by the petitioner while in jail, I am of the view that there is no illegality or infirmity in the impugned order, declining the premature release to the petitioner. Petitioner has only right to be considered for premature release and there is absolute no vested right that he must be prematurely released. His case is to be considered as per policy. Since, he does not fulfill the criteria, his case was rightly declined.

Resultantly, the present petition stands dismissed.

12.11.2018*gk***(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No