

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

CWP-4503-2018 (O&M)

Date of decision : 7.12.2018

Madan Lal @ Pappu

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Harit Sharma, Advocate for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

1. *Whether the Reporters of local newspaper may be allowed to see the judgment ?*
2. *To be referred to the Reporter or not.*
3. *Whether the judgment should be reported in the digest ?*

KULDIP SINGH J. (ORAL)

Petitioner seeks quashing of the order dated 21.6.2017 (Annexure P-6), passed by Additional Chief Secretary, Government of Punjab, Department of Home Affairs Justice and Jails vide which case of the petitioner for release of premature release was ordered to be examined after a period of 05 years from the date of jail offence due to his reporting back late from parole.

Heard.

It comes out that petitioner is undergoing life imprisonment in FIR No. 139/1995 under Sections 302, 148, 149 of the Indian Penal Code and Sections 25 and 27 of the Arms Act, registered at Police Station Bhikhiwind, District Amritsar vide judgment of conviction and order of sentence dated 19.7.1999, passed by learned Sessions Judge, Amritsar.

Learned counsel for the petitioner submits that petitioner has undergone almost 16 years and 06 months as on 27.6.2016, out of which 10 years and 05 months is the actual sentence. Petitioner was required to

undergo total sentence of 10 years and with remission of 14 years, as per the policy of the Government of Punjab, Department of Home Affairs & Justice (Home VIII Branch) dated 8.7.1991 (Annexure P-2) Petitioner is covered by the said policy.

It is further submitted that wife of the petitioner is suffering from cancer. Therefore, he was granted four weeks parole on 10.8.2009 but he did not surrender and ultimately surrendered on 13.3.2014, i.e., after 04 years, 06 months and 05 days. He was booked under Section 42 of the Prison's Act read with Section 8(2) of the Punjab Good Conduct Prisoners (Temporary Release) Act, 1962, for which he has been sentence to the period already undergone along with fine.

As per the policy of the Government of Punjab, case of the petitioner is to be considered for pre-mature release after undergoing 05 years of sentence, if he maintains good conduct in jail.

Learned counsel for the petitioner submits that petitioner cannot be punished twice. He has already been convicted and sentenced for jumping the parole. Therefore, his case cannot be deferred for 05 years which are otherwise to expire in February 2019.

Petitioner seeks that his case for premature release be considered and the impugned order dated 21.6.2017 (Annexure P-6) rejecting his case for pre-mature is liable to be quashed.

State in the reply has taken the stand that petitioner has jumped the parole, as stated above. He came back in jail on 13.3.2014. He has already been convicted and sentence under Section 42 of the Prison's Act.

As per para 1.1 B(II) of the Government Policy dated 8.7.1991 (Annexure P-2) convict is required to maintain good conduct in jail for last 05 years to be considered for pre-mature release.

It is further stated that petitioner has undergone actual sentence of 13 years 11 months and 07 days and with remission and total imprisonment of 16 years 07 months and 29 days till 31.5.2017 but he has not completed good conduct for the last 05 years. Therefore, he cannot be pre-maturely release.

I have gone through the impugned order dated 21.6.2017 (Annexure P-6) passed by Additional Chief Secretary Government of Punjab, Department of Home Affairs Justice and Jails which shows that the case of the petitioner for pre-maturely release was rejected on the ground that his conduct for the period of 05 years is not good as he had jumped parole for 04 weeks 06 months and 05 days and reported back in jail on 13.3.2014.

Learned counsel for the petitioner has produced a copy of the application for surrender which shows that petitioner himself applied for surrender on 7.3.2014 and was taken into custody on 17.3.2014, though admitted in jail few days later. In this way, even as per the policy of the Government of Punjab, petitioner will complete 05 years in the first week of March.

In such circumstance, even otherwise, the prison authorities are required to process the case of the petitioner well in time. Therefore, without quashing the order dated 21.6.2017 (Annexure P-6), State is directed to process the case of the petitioner afresh as per his conduct up-to-

date so that it can be decided by the time the petitioner become eligible for pre-mature release. State is further directed to decide the case of the petitioner for pre-mature release well in time by passing a speaking order.

In case, case of the petitioner is not decided within time, he is given liberty to approach this Court seeking direction for interim release on parole.

Disposed of.

(KULDIP SINGH)
JUDGE

7.12.2018
preeti

Whether speaking / reasoned	Yes
Whether Reportable:	No