

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

**CWP-6021-2018 (O&M)
Date of decision:14.12.2018**

Sukhwinder Singh

.....Petitioner

versus

State of Punjab and others

....Respondents

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. S.S. Rana, Advocate and
Mr. Sarvesh Gupta, Advocate for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

Kuldeep Singh, J. (Oral)

The petitioner has invoked the writ jurisdiction under Article 226 of the Constitution of India for issuance of writ in the nature of mandamus directing the respondent to premature release the petitioner on usual terms and conditions.

In view of the recommendations dated 22.12.2016 (Annexure P-4), passed by Senior Superintendent of Police, Sikkim, Gangtok made in view of the Section 433 A of Cr.P.C. 1973 and Article 161 of the Constitution of India.

The petitioner was working in Central Industrial Security Force (for short "CISF") as Constable No.824651733. On 20.03.2000, he had quarreled with his official namely Gautam Banerjee and shot him at his SLR resulting his death. The petitioner was tried under Section 302 IPC and ultimately convicted and sentenced to undergo imprisonment for life in addition to fine by learned Sessions Judge, East & North, Gangtok on 23.06.2003. His appeal was

dismissed by the Division Bench of the High Court of Sikkim, Gangtok on 03.12.2003. As the petitioner was resident of Punjab, he was transferred from Sikkim Jail to Central Jail, Gurdaspur on 19.01.2001, where he is confined till date. Earlier, the premature release case of the petitioner was issued by respondent No.2 namely The Superintendent, Central Jail, Gurdaspur on the ground that he has completed 14 years of sentenced but the same was rejected by Sikkim Government vide order dated 22.04.2014 (Annexure P-3) on the ground that he has not completed 14 years imprisonment as required under Section 433 A of Cr.P.C. Now the petitioner has completed 14 years sentence but no action is taken by the Government of Sikkim on behalf of Punjab Government. Reply filed by Deputy Superintendent, Central Jail, Gurdaspur to take the plea that after rejection of the premature release, case of the petitioner was again processed after completing 14 years imprisonment excluding parole and was sent to respondent No.3 namely State of Sikkim vide letter dated 02.01.2017 (Annexure P-5) to decide the premature release case of the petitioner. State of Punjab has also stated that the petitioner has already undergone the actual sentence of 14 years 11 months & 04 days and with remission 18 years & 22 days. It has been also stated that the petitioner never committed any jail offence and surrendered on time after the parole periods. It was further stated that the case of the petitioner vide letter No.4975 dated 27.06.2016 was forwarded to Sikkim Government-respondent No.3 and the District Magistrate, Gurdaspur was requested to get and send the police verification report vide Endorsement No.4976 dated 27.06.2016. The Additional District Magistrate, Gurdaspur vide letter No.4792/Reader dated 09.08.2016 has recommended the premature release case of the petitioner.

Thereafter, several reminders were sent to the Deputy Inspector General of Police (Prison), State Central Prison Government of Sikkim, Rongyek i.e. respondent No.3, but no response has been received.

The State of Sikkim in the reply while reiterating that earlier, the case of the petitioner was rejected as the petitioner has not undergone 14 years of actual imprisonment as referred to the Sikkim Prison Manual, 2010 which prescribed the procedure for releasing a person on premature release. It is stated that whatever the report of the District Magistrate and Superintendent of Jail are received, the matter will be put up before the Sikkim Sentence Review Board.

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

The replies of both the States, show that the petitioner has undergone the requisite sentence and now his case has been recommended by the Additional District Magistrate, Gurdaspur for premature release after getting necessary verification. Now the matter is to be considered by the Sikkim Sentence Review Board. After the issuance of letter dated 09.08.2016, several reminders have been issued but the State has not taken any action in the matter.

In the circumstances, the petition is disposed of with directions to respondents No.3-Government of Sikkim that it should complete entire process since the report from District Magistrate and police verification from Punjab has already been received. The Government should put up the case after completing all the formalities before Sikkim Sentence Review Board for consideration of the petitioner's case for premature release. Sikkim Government is further directed to decide the matter within two months from

the date of receipt of certified copy of this order and in case, the matter is not decided within two months by the Government of Sikkim, the petitioner shall be released on interim bail to the satisfaction of District Magistrate, Gurdaspur.

Accordingly, the petition is allowed.

In view of the above, CRM-13132-2018 is accordingly disposed of.

(KULDIP SINGH)
JUDGE

14.12.2018
anju rani

Whether speaking/ reasoned:	Yes
Whether Reportable:	No