

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-6482-2018 (O&M)
Date of decision: 14.11.2018

Sanjay

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.R.S.Mamli, Advocate for the petitioner
Mr.Sandeep Vashisht, DAG Haryana

- 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?*

Kuldeep Singh, J. (Oral)

Petitioner has invoked the writ jurisdiction of this Court under Articles 226/227 of Constitution of India for the grant of premature release.

Petitioner was convicted in FIR No.268 dated 25.6.2003 under Sections 302 IPC read with 34 IPC and 25 of Arms Act vide judgment of conviction dated 16.9.2005 and order of sentence dated 19.9.2005 passed by learned Additional Sessions Judge, Karnal. Appeal against the said judgment is stated to have been dismissed.

As per reply of the State dated 27.7.2017, petitioner had undergone actual sentence of 13 years 10 months and 7 days and with remissions 17 years 4 months and 9 days, which means that at present, the actual sentence is more than 15 years and with remissions might be more than 18 years. Premature release case of the petitioner was dismissed by Government of Haryana vide order dated 13.6.2016 (Annexure R2) on the

ground that case of the petitioner falls under para 2(a)(xii) of the Policy dated 12.4.2002. (Annexure R1) It was observed that this life convict is a harden criminal and was involved in 9 other criminal offences. He has been convicted in four cases.

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

I have gone through the policy dated 12.4.2002 (Annexure R1). Clause 2(a)(xii) invoked in the present case, lays down about the convict who cannot for some definite reason be prematurely released without danger to the public safety. In such cases, the prisoner is required to undergo actual imprisonment of 14 years and with remissions 20 years.

Learned counsel for the petitioner states that in the murder case, the petitioner has been acquitted. It is further contended that vague reasoning has been given. Neither details of the cases have been given nor any reasoning is given as to on which basis, it is held that the petitioner is danger to the public safety. There is no report of such public authority, rather, it is contended that Panchayat has given in writing about the good conduct of the petitioner.

Learned State counsel has referred to the pending and decided cases showing that two cases under Prisoners Act are pending. If the petitioner has committed offence under the Prisoners Act, he will be punished for the same and it cannot be made a ground for declining premature release.

In these circumstances, the impugned order dated 13.6.2016 (Annexure R2) is set aside. Respondents are directed to reconsider the case of the petitioner and decide as to in which clause case of the petitioner falls

and give reasoning in support of the said order. Order be passed within a period of one month from the date of receipt of a certified copy of this order.

The present petition stands allowed accordingly.

Since, the main writ petition has been disposed of, CM 10198-CWP-2018 has become infructuous and is disposed of accordingly.

14.11.2018
gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No