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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7161 of 2018
Date of decision: 28.11.2018

Jatinder Kumar

....Petitioner

versus

State of Punjab and others

....Respondents

CORAM: Hon'ble Mr. Justice Kuldip Singh

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

Ms. Sunint Kaur, AAG, Punjab.

Kuldip Singh, J. (Oral)

Heard.

Petitioner has filed this petition under Article 226 of the Constitution of India for directing the respondents for his premature release on parole as per Government instructions dated 08.07.1991 (Annexure P-1). He has also sought the quashing impugned order dated 12.01.2018 (Annexure P-2), vide which, his request of premature release was declined by the Government of Punjab.

Admittedly, the petitioner-Jatinder Kumar was convicted for the offence under Section 302 & 404 IPC by learned Sessions Judge, Fatehgarh Sahib and sentenced to undergo life imprisonment under Section 302 IPC and rigorous imprisonment for three years under Section 404 IPC in

addition to fine. Earlier, vide letter dated 25.09.2017, the Government had rejected the case of the petitioner for premature release. The petitioner approached this Court by way of CWP-3222-2017, in which, this Court held that the policy on the date of judgment will apply and the Government was directed to re-consider the case of the petitioner. Now, the case has been re-considered and rejected.

Reply on behalf of the State has been obtained.

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

As per impugned order dated 12.01.2018, the petitioner was required to undergo 10 years of actual imprisonment and 14 years imprisonment with remission. The petitioner has already undergone 14 years, 08 months & 02 days actual imprisonment and 22 years, 08 months & 02 days imprisonment with remission (less parole) as at the time of passing of the impugned order. Since the petitioner belong to Uttar Pardesh State, report of District Magistrate Sultanpur (U.P.) was also sought along with report of District Probation Officer. Probationary Officer reported that he did not recommend the premature release of the petitioner on the ground that convict is likely to commit crime in future and also cause breach of peace . It was on the basis of report of District Magistrate, Sultanpur, premature release has been declined.

I am of the view that there is no previous conviction against the petitioner. It is not even alleged that during his confinement in the jail, he committed some jail offence or his conduct was bad. Now the question

arises that when the conduct of the petitioner during his confinement in jail for more than 14 years, is satisfactory, then how it can be presumed that he will commit crime again and is likely to breach the peace. The apprehension that he will commit crime and commit the breach of peace is imagination of the authorities without any supporting material.

It being so, impugned order dated 12.01.2018, passed by Additional Chief Secretary to Government of Punjab, Department of Home Affairs, Justice and Jails, is set aside. State is directed to reconsider the case of the petitioner without considering the ground that he will commit crime again and is likely to breach the peace and pass a fresh order within a month from the date of receipt of certified copy of this order. It is further directed that if Government is unable to decide the case of the petitioner within a month, he will be released on interim parole till the time his case is decided.

Hence, the petition is allowed.

(KULDIP SINGH)
JUDGE

28.11.2018

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Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No