

256
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/11/2018 12:24
I attest to the accuracy and
authenticity of this document

CWP-9133-2018 (O/M)
Date of decision : 31.10.2018

Mahender Singh and another Petitioner (s)

Versus

State of Haryana and others Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. D. N. Ganeriwala, Advocate,
for petitioners.

Mr. Sandeep Vashisht, DAG Haryana.
-:- -:-

KULDIP SINGH, J. (ORAL)

Petitioners, namely, Mahender Singh and Pawan Kumar alongwith co accused Shera Singh and Rajender Singh were convicted by learned Additional Sessions Judge, Sirsa, in a case FIR No. 59, dated 20.2.2006, under Sections 302 read with 34 and 324 IPC and sentenced to undergo maximum imprisonment for life in addition to fine, vide judgment of conviction dated 22.4.2008 and order of sentence dated 25.4.2008.

Earlier also, petitioners approached this Court by way of filing CRWP-617-2017, in which this Court quashed earlier impugned order, passed by respondents, declining them premature release from jail, vide order dated 28.9.2017, passed by a coordinate bench of this Court. Respondents were directed to reconsider the case of petitioners. Now, respondents have reconsidered the case of petitioners and passed separate fresh orders dated 25.12.2017 (Annexure-P-6 and Annexure-P-7) declining their premature release from jail on the ground that petitioners have not completed actual sentence of 14 years and total sentence of 20 years, as crime is heinous crime.

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

The learned counsel for petitioners has argued that one of convicts Rajender Singh, who was attributed same role, has already been granted benefit of premature release. Their case is at same footing. The learned counsel for petitioner has further argued that virtually same orders dated 25.12.2017 (Annexure-P-6 and Annexure-P-7) have again been passed by respondents to decline the benefit of premature release.

I have gone through judgment, passed by trial Court, which shows that four persons, namely, Rajender Singh, Pawan Kumar, Mahender Singh and Shera Ram had committed murder of Ranbir. The murder was witnessed by complainant Chunni Ram. The deceased happens to be close relation of accused. The post mortem report shows as many as 11 injuries. Three of the injuries were on the face, causing laceration to brain tissues. In the presence of complainant, Rajender had given one blow on head of deceased and all other accused had given some blows. However, before his arrival, some injuries had already been caused. All accused have been convicted with the aid of Section 34 IPC.

The learned counsel for petitioners contends that petitioners are entitled to parity with co accused Rajender Singh, who is similarly situated and has been prematurely released from jail.

I am of the view that if State has inadvertently committed one mistake, that is no ground to commit same mistake again. The State can always reconsider orders already passed regarding said convicts, which is being done by the State now, as informed by learned State counsel. However, the policy of Government dated 12.4.2002 (Annexure-P-1) shows that crime is being treated as heinous as it was committed with brutality.

The nature of injuries on head shows that murder was committed with cruelty and was rightly considered as heinous crime. As per policy dated 12.4.2002 (Annexure-P-1) of State, case of premature release from jail in case of petitioners is to be considered on completion of 14 years of actual sentence including undertrial period provided that total period undergone including remissions should not be less than 20 years. Since case of petitioners is not covered by said policy of Government, therefore, there is no ground to grant remission to petitioners.

Dismissed.

(KULDIP SINGH)
JUDGE

31.10.2018
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No