

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

**CWP-3365-2019 (O&M)
Date of Decision: 20.5.2019**

Tej singh @ Gogo and another

.....PETITIONER(s).

VERSUS

State of Haryana and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. P.R.Yadav, Advocate
for the petitioners.
Mr. Vikas Chopra, DAG, Haryana.

RAJ SHEKHAR ATTRI, J.

This is a writ petition under Article 226/227 of the Constitution of India in the nature of certiorari for quashing impugned orders dated 13.6.2006 (Annexure P-6 and P-7) and orders dated 25.7.2018 (Annexures P-7/A and P-7/B) vide which the claim of the petitioners with regard to pre-mature release has been deferred for two years by observing as under : -

Tej Singh @ Gogi son of Mohar Singh

“.... He was convicted and sentenced to life imprisonment in case FIR No.2328 dated 22.12.1998 P.S. Sadar Gurugram U/s 380, 458, 460, 34 IPC on 08.11.2006 by the Ld. Addl. Sessions Judge (FTC), Gurugram. Total period of sentence undergone by this convict in the jail upto 25.05.2018 is as under :

	Y	M	D
ACTUAL SENTENCE	20	00	00
TOTAL SENTENCE	25	01	10

2. The date of conviction of this life convict is 08.11.2006, so, the policy of pre mature release dated 12.4.2002 is applicable in this case. The State Level Committee has considered this case and recommended that his case is covered under para 2(aa)(iv) of the policy dated 12.04.2002. This life convict belongs to a gang of habitual offenders, who committed lurking house tresspass or house-breaking at night and commit dacoity/robbery/theft and were not afraid of causing death of innocent persons in a very brutal manner for the lust of money. He is a hardened criminal and is involved in nineteen other heinous criminal offences such as murder, attempt to murder, dacoity, robbery, and theft. Out of these nineteen criminal offences, he has been convicted and sentenced in seven criminal offences. He is still young and a danger to public safety. Thus, his release would not be in public interest. Moreover, no convict has fundamental right of remission or shortening of sentence. The State Government in exercise of its executive/discretionary power of remission is to be consider each individual case keeping in view all the relevant factors.”

Jailor son of Mohar son of Mohar Singh

“.... He was convicted and sentenced to life imprisonment in case FIR No.2328 dated 22.12.1998 P.S. Sadar Gurugram U/s 380, 458, 460, 34 IPC on 08.11.2006 by the Ld. Addl. Sessions Judge (FTC), Gurugram. Total period of sentence undergone by this convict in the jail upto 25.05.2018 is as under :

Y	M	D
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ACTUAL SENTENCE	20	00	00
TOTAL SENTENCE	25	04	16

2. The date of conviction of this life convict is 08.11.2006, so, the policy of pre mature release dated 12.4.2002 is applicable in this case. The State Level Committee has considered this case and recommended that his case is covered under para 2(aa)(iv) of the policy dated 12.04.2002. This life convict belongs to a gang of habitual offenders, who commit lurking house trespass or house-breaking at night and commit dacoity/robbery/theft and are not afraid of causing death of innocent persons in a very brutal manner for the lust of money. He is a hardened criminal and is involved in nineteen other heinous criminal offences such as murder, attempt to murder, dacoity, robbery, and theft. Out of these nineteen criminal offences, he has been convicted and sentenced in seven criminal offences. He is still young and a danger to public safety. Thus, his release would not be in public interest. Moreover, no convict has fundamental right of remission or shortening of sentence. The State Government in exercise of its executive/discretionary power of remission is to be consider each individual case keeping in view all the relevant factors.”

Clause 2(aa)(a) of policy Annexure P-1 reads as under : -

“(aa) X X X

(a) Convicts who have been imprisoned for life having committed a heinous crime such as	Their cases may be considered – after completion of 14 years actual sentence including undertrial period provided that the total period of such sentence including remissions is not less than 20 years
(i) Murder with wrongful confinement for extortion/robbery	

(a) Convicts who have been imprisoned for life having committed a heinous crime such as	Their cases may be considered – after completion of 14 years actual sentence including undertrial period provided that the total period of such sentence including remissions is not less than 20 years
(ii) Murder while undergoing life sentence	
(iii) Murder with dacoity	
(iv) Murder with offence under TADA Act, 1987	
(v) Murder with Untouchability (Offences) Act, 1955	
(vi) Murder in connection with dowry	
(vii) Murder of a child under the age of 14 years	
(viii) Murder of a woman	
(ix) Murder after abduction or kidnapping	
(x) Murder exhibiting brutality such as cutting the body into piece of burning/dragging the body as evident from the judgment of the court	
(xi) Persistant bad conduct in the prison	
(xii) Convicts who cannot for some definite reasons be prematurely released without danger to public safety	
(xiii) Convicts who have been imprisoned for life under section 120-B of IPC.	
(xiv) Any other crime that the State Level Committee considers to be 'heinous' for reasons to be recorded in writing	

As per the said policy, the case of the petitioners should be considered after completion of 14 years of actual sentence including undertrial period provided that the total period of such sentence including remissions is not less than 20 years. Undisputedly, the case of the petitioners is fully covered under the said policy. They have undergone

actual sentence of 20 years and total sentence undergone is 25 years, 1 month and 10 days and 20 years and 25 years, 4 months and 16 days respectively as on 25.5.2018.

The claim of the petitioners was deferred for two years solely on the ground that he committed murder of innocent persons for the lust of money.

In view of the above, impugned orders dated 13.6.2006 (Annexure P-6 and P-7) and 25.7.2018 (Annexures P-7/A and P-7/B) are not sustainable in the eyes of law and are set aside.

The present petition is disposed of with a direction to the State to re-consider the claim of the petitioners in terms of policy (Annexure P-2) within a period of 90 days from the date of receipt of a certified copy of this order.

May 20, 2019
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No