

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

CWP-5642-2019

Date of Decision:-4.9.2019

KADIR

... Petitioner

Versus

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. B.S. Aulakh, Advocate
for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking his pre-mature release claiming that he is covered by the Policy dated 8.7.1991.
2. The petitioner stands convicted vide judgment dated 9.12.2005 passed by learned Court of Additional Sessions Judge, Faridabad for having committed offences under Sections 302, 364, 395, 201 read with Section 120-B IPC. The appeal filed by the petitioner challenging his conviction also stands dismissed vide judgment dated 6.10.2012 (Annexure P-1) passed in CRA-D-116-DB-2006.
3. Learned counsel for the petitioner has submitted that as per the policy dated 8.7.1991 (Annexure P-3), the petitioner is entitled to be released having served an actual imprisonment of more than 12 years. The relevant extract from the aforesaid Policy is extracted as follows:-

	A		B		C		D		E
	For convicts whose death sentence has been commuted to life imprisonment		Convicts who have been imprisoned for life for offences for which <u>death is a punishment</u> and have committed <u>heinous crime</u>		Convicts who have been imprisoned for life for offences for which death is a penalty but crimes are not considered heinous.		Other life convicts imprisoned for life for offences for which the death is not punishment and have committed heinous crime		Other life convicts
	Actual Imprisonment	Imprisonment with remissions	Actual Imprisonment	Imprisonment with remissions	Actual Imprisonment	Imprisonment with remissions	Actual Imprisonment	Imprisonment with remissions	Actual Imprisonment
Adults	14	20	<u>12</u>	18	10	14	10	14	8 ½
Females/minors	10	14	8	12	8	12	8	12	6

4. Opposing the petition, the learned State counsel while admitting that the petitioner has indeed undergone an actual imprisonment of 12 years, has submitted that in fact the petitioner is not covered by Policy dated 8.7.1991 (Annexure P-3) which is in fact a policy issued by Government of Punjab and not by Government of Haryana. It has been submitted that in fact petitioner would be covered by Policy of 12.4.2002 (Annexure R-1) issued by Government of Haryana.
5. I have considered rival contentions addressed before this Court. Hon'ble the Supreme Court in *State of Haryana and others vs. Jagdish JT 2010 (3) Supreme Court 341*" has held that the case of pre-mature release of a prisoner, has to be considered in light of Policy which is in existence at the date of his conviction. In the present case it was on 9.12.2005 that the petitioner was convicted and consequently his case for pre-mature release has to be governed by Policy dated 12.4.2002 Annexure (R-1), issued by Government of Haryana. A perusal of the said policy shows that a person sentenced to undergo life imprisonment on account of having committed heinous offence can be considered for pre-mature release only after he has undergone an actual imprisonment of 14 years including under trial period

provided that the total period of such sentence including remissions is not less than 20 years. The relevant extract from the aforesaid Policy is extracted as follows:-

2. In super-session of Haryana Government memo No.36/135/91-1JJ(II), dated 8.8.2000 which was further substituted bearing same number and dated on 23.2.2001, the Government have decided to revise the policy regarding premature release of life convicts as follows:-

XXXXXX

- (a) Convicts who have been imprisoned for life having committed a heinous crime such as :-

- (i) Murder with wrongful confinement for extortion/robbery.

- (ii) Murder while undergoing life imprisonment.

- (iii) **Murder with dacoity.**

- (iv) to (xv) ----XXXXXXXX

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.

6. In view of the aforesaid position, this Court find that the case of the petitioner is not covered by the policy Annexure R-1, applicable to petitioner as he has not undergone the period of imprisonment prescribed in the policy. Consequently, finding no merit in the petition, the same is hereby dismissed.

(GURVINDER SINGH GILL)
JUDGE

4.9.2019
Gaurav Sorot

Whether reasoned / speaking?
Whether reportable?

Yes / No
Yes / No