

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9837-2019 (O&M)
Date of Decision:- 18.9.2019

Parvesh ... Petitioner

Versus

State of Haryana and others ... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Hoshiar Singh, Advocate for the petitioner.
Ms. Aditi Girdhar, Assistant Advocate General, Haryana.

GURVINDER SINGH GILL, J.

1. The petitioner has approached this Court seeking quashing of order dated 22.9.2016 (Annexure P-3) whereby the case of the petitioner for his premature release has been rejected.
2. The petitioner stands convicted vide judgment dated 25.4.2005 passed by learned Additional Sessions Judge, Jhajjar for having committed offences punishable under Sections 302/149, 148 IPC and Section 25 of Arms Act whereby he was sentenced to undergo imprisonment as follows :-

Convicted under section	Sentence Imposed	In default of payment of fine
302/149 IPC	R.I. for life and fine of ₹ 2000/-	Further R.I. for 6 months
148 IPC	R.I. for 2 years and fine of ₹ 500/-	Further R.I. for 1 month
25 of Arms Act	R.I. for 2 years and fine of ₹ 500/-	Further R.I. for 1 month

3. The appellant preferred an appeal in this Court challenging his conviction by way of filing criminal appeal i.e. CRA-D-397-DB of 2005 which stands dismissed vide judgment dated 20.4.2009.
4. The case of the petitioner was considered by the Government of Haryana for his premature release but was declined vide impugned order dated 22.9.2016 (Annexure P-3). The operative portion of the order reads as follows :-

“The date of conviction of this life convict is 27.04.2005, so, the policy of Premature Release dated 12.04.2002 is applicable in this case. His case falls under Para 2(a)(xi), (xii) & (xiv) (danger to public safety and heinous crime) of the above policy. This convict has been involved in 08 other criminal offences of murder, attempt to murder, dacoity, Arms Act, conspiracy etc. He had been a twice parole jumper. This convict had committed 07 other offences that is murder brutality by firing upon the deceased hitting his vehicle then chasing him in fields. This convict has committed heinous crime and this convict is danger to public safety. Accordingly, his case is to be considered after completion of 14 years actual sentence including under trial period provided that the total period of such sentence including remission is not less than 20 years.

He has completed 12 years 01 month and 28 days actual sentence including under trial period and 13 years 11 months 09 days total sentence including remissions and after deducting parole period.

Keeping in view the above said facts and the recommendation of the State Level Committee, the premature release of this life convict will be reconsidered after completion of 14 years actual sentence and 20 years total sentence as per policy dated 12.04.2002.”

5. The learned counsel for the petitioner has submitted that his case is squarely covered by policy dated 12.4.2002 issued by Government of Haryana which is applicable to the petitioner, being the policy applicable at the time of conviction of the accused on 25.4.2005. It has been submitted that since the petitioner had already undergone an actual sentence of more than 12 years, he was entitled to be prematurely released.
6. Opposing the petition, the learned State counsel has submitted that the petitioner has remained involved in as many as 9 cases, the details of which have been mentioned in para 2 of the reply which would essentially indicate that the petitioner is a habitual offender, thus, disentitling him for any benefit of premature release. It has further been submitted that although in 7 out of 9 cases registered against the petitioner, he stands acquitted but the very fact that he has remained involved in 9 cases speaks volume about the antecedents of the petitioner. It has further been submitted that the petitioner had misused the concession of parole on 2 occasions by absconding from parole for 1 year 9 months and 26 days and had also committed two jail offences regarding which FIR was registered. It has further been pointed out that it was during the period he remained absconding that he had committed other offences for which FIR was lodged against him.
7. The learned State counsel has further submitted that the petitioner will be entitled to be considered for premature release after he completes 14 years of actual sentence and 20 years of total sentence including remissions in terms of Para 2(a)(xi), (xii) and (xiv) of policy dated 12.4.2002.
8. I have considered rival submissions addressed before this Court. It goes without saying that the convict cannot claim his premature release as a

matter of right and it is only if his case is squarely covered under the policy in existence at the time of conviction of the accused that he may be considered for his premature release. Such concession of premature release is extended to the convict keeping in view various factors including his conduct, behaviour, antecedents and the likelihood of breach of peace in the eventuality of his release etc. In the present case, the case of the petitioner for his premature release was placed before the State Level Committee on 7.9.2016 which recorded the following observations :-

“As per averments made in foregoing paras, the petitioner had not undergone the requisite 20 years total sentence, which is required for consideration of his case for premature release as per para 2(a)(xi), (xii) & (xiv) of the policy dated 12.04.2002. Hence, his premature release case will be reconsidered after completion of 20 years total sentence, if otherwise found eligible.”

9. Further as per Para 4 of the policy dated 12.4.2002 (Annexure P-2), the conduct during the last 5 years from the date of his eligibility for consideration of premature release is to be considered. The relevant extract from Para 4 of the Policy dated 12.4.2002 reads as follows :-

- i) overall conduct of the life convicts during his/her confinement in the jail with specific emphasis. However, on his conduct for the last five year from the date of his/her eligibility for consideration of premature release under para 2(aa) to 2(a) may be termed as under :-

- | | | |
|----|--|------------------|
| a) | if he/she has not been punished
for any jail offence during the
last five years. | good |
| b) | if he/she has been punished
with a minor punishment during
the last five years. | satisfactory |
| c) | if he/her has been
punished with a major punishment
during the last five years. | Not satisfactory |

10. In the present case the petitioner having been convicted on 25.4.2005 and while being in custody committed an offence regarding which FIR No. 482/2012 under Section 8/9 of Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 was lodged at Police Station Sadar Bahadurgarh. The petitioner having been involved in the offence under Haryana Good Conduct Prisoners (Temporary Release) Act, 1988 in the year 2012 was disentitled to be considered during the next 5 years. The impugned order rejecting the claim of the petitioner in the year 2016 i.e. within a period of 5 years from 2012 would be justified on the said score as well. Since it has been specifically opined that the petitioner is dangerous to public safety, his case would specifically be covered under Para 2(a)(xi),(xii) & (xiv) and thus, would be required to undergo atleast 14 years of actual sentence and a total sentence of 20 years for becoming eligible for being considered for premature release. As such, this Court does not find any infirmity in the impugned order. The petition, as such, is dismissed. Needless to mention that the case of the petitioner can be considered again for premature release

after he undergoes the requisite period of imprisonment in terms of policy dated 12.4.2002.

18.9.2019

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No