

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CWP-10467-2018 (O&M)
Date of Decision: 20.5.2019

Inder @ Indel

.....PETITIONER(s).

VERSUS

State of Haryana and others

.....RESPONDENT(s).

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

Present: Mr. Hoshiar Singh Jaswal, Advocate
for the petitioner.
Mr. Pawan Garg, AAG, 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 order dated 25.12.2017 (Annexure P-3) vide which the claim of the petitioner with regard to pre-mature release has been deferred for two years by observing as under : -

“.... He was convicted and sentenced to life imprisonment in case FIR No.369 dated 23.9.2001 P.S. Sadar Bhiwani U/s 396, 412 IPC on 21.9.2005 by the Ld. Addl. Sessions Judge, Bhiwani. Total period of sentence undergone by this convict in the jail upto 20.10.2017 is as under :

	Y	M	D
ACTUAL SENTENCE	15	11	25
TOTAL SENTENCE	20	00	00

2. The date of conviction of the petitioner is 21.09.2005, so, the policy of pre mature release dated 12.4.2002 is applicable in this case. The committee has considered his case and recommended that his case is covered under para 2(a) of the policy dated 12.04.2002 but this life convict is a gang professional criminal who commit dacoity by killing house inmate. He is danger to public safety. He is still young.

Clause 2(aa)(a) of policy Annexure P-2 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	
(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	

(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
(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 petitioner is fully covered under the said policy. He has undergone actual sentence of 15 years, 11 months and 25 days and total sentence undergone is 20 years as on 20.10.2017.

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 order dated 25.12.2017 (Annexure P-4) is not sustainable in the eyes of law and is set aside.

The present petition is disposed of with a direction to the State to re-consider the claim of the petitioner 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

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>