

*CWP-23247-2018 and
CWP-40659-2018*

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(1.)**

CWP-23247-2018
Date of Decision:-20.05.2019.

Om Prakash

.....Petitioner

Versus

State of Haryana and others

.....Respondents

(2.)

CWP-40659-2018

Ramehar

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Vijay K. Jindal, Advocate for the petitioner in
CWP-23247-2018.

Mr. Randeep S. Dhull, Advocate for the petitioner in
CWP-40659-2018.

Mr. Manoj Kumar Sangwan, DAG, Haryana.

RAJ SHEKHAR ATTRI, J.

By this common order, the above two petitions shall be
disposed of as the point in issue in both these petitions is identical.
However, for brevity, facts are taken from CWP-23247-2018.

Petitioner has filed this petition under Articles 226/227 of the

Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 07.04.2017 passed by respondent No.1 (Annexure P-4), whereby his case for grant of premature release has been rejected.

Petitioner Om Parkash was convicted and sentenced to undergo life imprisonment for the offences punishable under Section 302 read with Section 149 of the Indian Penal Code and to pay a fine of Rs.2,000/- vide judgment dated 19.07.2001. Against the judgment of conviction and sentence, petitioner filed Criminal Appeal No.387-DB of 2001 which was decided on 16.09.2011 and this Court altered conviction under Section 302 read with Section 149 IPC to Section 302 read with Section 34 IPC. The conviction under Section 148 IPC was set aside.

The State level Committee on the post-mortem report opined that 21 injuries were suffered by the deceased and he was murdered in a brutal manner, therefore, case of the petitioner for premature release was declined. In similar circumstances, co-accused Krishan filed CRWP-1541-2016 which was allowed by this Court on 21.08.2017 and following order was passed:-

“In view of the observations in the aforesaid case, I agree with the submission of learned counsel for the petitioner that the case of the petitioner does not fall in the category of murder exhibiting brutality as defined in para 2 (a) (xii) of the State Policy. It is a case where deceased Ram Chander was caused injuries by 5-6 persons and after few hours of the incident, he had died. The case of the petitioner falls under para 2 (b) of the State Policy. Consequently, this petition is allowed and order dated 22.09.2016 is set aside with direction to the authorities to re-examine the case of the petitioner as per para 2 (b) of the State Policy (Annexure P-4) and pass

appropriate order.”

State filed SLP (Crl) No.002229 of 2018 before the Hon'ble Supreme Court which was dismissed.

Learned counsel for the petitioner submitted that case of the petitioner is fully covered under para 2 (b) of the Policy dated 08.08.2000 (Annexure P-3), as per which petitioner has to undergo 14 years actual sentence and 20 years total sentence including remissions.

The petitioner has undergone 13 years, 01 month and 18 days actual sentence and 18 years, 08 months and 18 days total sentence including remissions up to 07.09.2018. Thus, case of the petitioner is covered under para 2 (b) of the Policy dated 08.08.2000 (Annexure P-3).

Keeping in view the facts and circumstances, this Court is of the view that the impugned order dated 03.04.2017 (Annexure P-4) is not sustainable in the eyes of law and the same is hereby set aside with a direction to the authorities to re-examine the case of the petitioner as per para 2 (b) of the Policy dated 08.08.2000 (Annexure P-3) and pass appropriate order within one month from the date of receipt of certified copy of this order.

Allowed.

(RAJ SHEKHAR ATTRI)
JUDGE

May 20, 2019.
sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.