

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

**CWP-26389-2018 (O&M)
Date of Decision: 11.7.2019**

Hari Parkash @ Ballu

.....PETITIONER(s).

VERSUS

State of Haryana and others

.....RESPONDENT(s).

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

Present: Mr. V.K. Jindal, Advocate
for the petitioner.

Mr. Manoj Kumar Sangwan, 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 order dated 25.7.2018 (Annexure P-4) 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.901 dated 28.10.1999 P.S. City Gurugram U/s 302 IPC and 25 of Arms Act on 29.9.2001 by the Ld. Sessions Judge, Gurugram. Total period of sentence undergone by this convict in the jail upto 25.04.2018 is as under :

Y M D

ACTUAL SENTENCE	15	03	05
TOTAL SENTENCE	20	00	00

2. The date of conviction of this life convict is 29.09.2001, so, the policy of pre mature release dated 08.08.2000 is applicable in this case. The State Level Committee has considered his case and recommended that his case is covered under para 2(a)(viii) and (xiv) of the policy dated 08.08.2000 as this life convict is a habitual offender and a gangster who is repeatedly involved in twenty five heinous crimes, such as murder, attempt to murder, dacoity, robbery, theft, Arms Act, putting person in fear of death or of grievous hurt in order to commit extortion etc. He also overstayed concession of parole and has committed crimes during his parole period.

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

“(a) X X X

(a) Convicts whose death sentence has been commuted to life imprisonment and convicts who have been imprisoned for life for 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 with rape	
(iii) Murder while undergoing life sentence	
(iv) Murder with dacoity	
(v) Murder with offence under TADA Act, 1987	
(vi) Murder with Untouchability (Offences) Act, 1955	
(vii) Murder in connection with dowry	
(viii) Murder of a child under the age of 14 years	
(ix) Murder of a woman	

(a) Convicts whose death sentence has been commuted to life imprisonment and convicts who have been imprisoned for life for 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
(x) Murder after abduction or kidnapping	
(xi) Murder on professional/hired basis	
(xii) Murder exhibiting brutality such as cutting the body into piece of burning/dragging the body as evident from the judgment of the court	
(xiii) Persistant bad conduct in the prison	
(xiv) Convicts who cannot for some definite reasons be prematurely released without danger to public safety	
(xv) Convicts who have been imprisoned for life under section 120-B of IPC.	
(xvi) Convicts who have been awarded life imprisonment a second time under any offence.	
(xvii) 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 petitioner 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, 3 months and 5 days and total sentence undergone is 20 years as on 25.4.2018.

The claim of the petitioner was deferred for two years solely

on the ground that he is a habitual offender and a gangster as mentioned in para 2 of Annexure P-4.

In view of the above, impugned order dated 25.7.2018 (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-3) within a period of 60 days from the date of receipt of a certified copy of this order.

July 11, 2019
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

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