

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-9697-2018

Date of Decision:-15.05.2019.

Salahudin

.....Petitioner

Versus

The State of U.T. Chandigarh through its Secretary, Department of Home,
Chandigarh Administration, Chandigarh (U.T.) and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Hoshier Singh Jaswal, Advocate for the petitioner.

Mr. Rajiv Sharma, A.P.P. U.T. Chandigarh.

RAJ SHEKHAR ATTRI, J.

Present petition has been filed by the petitioner under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing the order dated 11.12.2017 (Annexure P-3) passed by respondent No.1, rejecting his claim for premature release in an illegal and arbitrary manner and directing the respondents to release him from judicial custody as he has already undergone the requisite sentence of imprisonment as per Policy/Instructions of Punjab Government applicable to Chandigarh dated 08.07.1991 (Annexure P-2) applicable at the time of his conviction and now he has been detailed illegally by the respondents.

Petitioner is undergoing life imprisonment in Model Jail, Chandigarh in case FIR No.30 dated 19.02.2001 under Sections 302, 307,

449, 34 IPC, registered at Police Station, Sector 03, Chandigarh, convicted by the learned Additional Sessions Judge, Chandigarh on 21.09.2006 and was sentenced to undergo rigorous imprisonment under Section 302 read with Section 34 IPC and to pay fine of Rs.5,000/- and in default thereof further to undergo simple imprisonment for 6 months, further sentenced to undergo rigorous imprisonment for 5 years and to pay fine of Rs.2,000/- under Section 307 read with Section 34 IPC and in default thereof, further to undergo simple imprisonment for 2 months and further sentenced to undergo rigorous rigorous imprisonment for 5 years with fine of Rs.2,000/- under Sections 449 read with Section 34 IPC and in default of payment of fine, further to undergo simple imprisonment for 02 months. All the substantive sentences were ordered to run concurrently. The petitioner had filed appeal vide CRA No.830-DB-2006 which was dismissed by this Court on 05.12.2008.

As per policy dated 08.07.1991 (Annexure P-2), petitioner has to undergo 14 years as actual sentence and 20 years including remissions. As per the custody certificate dated 03.07.2018, petitioner has undergone 17 years, 04 months and 10 days of actual sentence and 21 years, 07 months and 06 days as total sentence including remissions but his claim with regard to premature release has been declined vide order dated 11.12.2017 (Annexure P-3), solely on the ground that he committed a heinous crime. To the mind of this Court he has already undergone more than 22 years of the actual sentence as on today and the total sentence is of 21 years, 7 months and 6 days as on 03.07.2018. Therefore, his case is covered by policy dated 08.07.1991 (Annexure P-2).

with a direction to the State to reconsider the claim of the petitioner with regard to premature release within a period of 90 days from today.

However, in the meanwhile, petitioner be released on interim bail subject to his furnishing bail bonds to the satisfaction of Chief Judicial Magistrate/Area Magistrate/Duty Magistrate concerned.

(RAJ SHEKHAR ATTRI)
JUDGE

May 15, 2019.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.