

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

**CWP-11590-2018 (O&M)
Date of Decision: 17.7.2019**

Sudhir Kumar

.....PETITIONER(s).

VERSUS

State of Haryana and others

.....RESPONDENT(s).

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

Present: Mr. Paramjit Singh Jammu, Advocate
for the petitioner.

Mr. Vikas Chopra, DAG, Haryana.

Mr. D.N.Ganeriwala, Advocate,
for respondent No.5.

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 25.4.2018 (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.26 dated 04.02.1999 P.S. Sadar Dabwali U/s 302 IPC on 23.12.2006 by the Additional Sessions Judge, Sirsa. Total period of sentence undergone by this convict in the jail upto 09.03.2017 is as under :

Y M D

ACTUAL SENTENCE	16	08	25
TOTAL SENTENCE	20	00	00

2. The date of conviction of the convict is 23.12.2006, so, the policy of premature release dated 12.04.2002 is applicable in this case. His case is covered under para 2(a)(xi) & (xii) (Hardened criminal and having Persistent bad conduct) of the policy dated 12.04.2002. Although this life convict has undergone his sentence as per para 2(a)(xi)(xii) but this convict has persistent bad conduct inside and outside of the jail. He has violated the discipline, rules and regulations of the jail department by surrendering late from parole on five different occasions. He escaped from police custody for almost two years. During the period of escape 07 more FIRS were registered against him. Otherwise 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	

(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
(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	
(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 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 16 years, 8 months and 25 days and total sentence undergone is 20 years as on 9.3.2017.

The claim of the petitioner was deferred for two years solely on the ground that he is a danger to public safety. But no material has been placed on the record to establish if he is real danger to the society.

In view of the above, impugned order dated 25.4.2018 (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-1/A) within a period of 60 days from the date of receipt of a certified copy of this order.

July 17, 2019
Paritosh Kumar

(RAJ SHEKHAR ATTRI)
JUDGE

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