

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
(Heard through VC)**

**CRWP No. 4569 of 2020 (O&M)
Date of Decision: March 19, 2021**

Ranbir Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vikram Punia, Advocate
for the petitioner.

Mr. Gurbir Singh Dhillon, AAG, Haryana.

JAISHREE THAKUR, J.

1. The petitioner has preferred this instant petition as he is aggrieved against the denial of his premature release, in terms of policy dated 12.04.2002 (Annexure P/1).

2. In brief the facts are, that the petitioner was nominated as an accused in FIR No. 413 dated 30.12. 2004 under Sections 302, 307, 353, 186, 34 IPC, read with Sections 25, 27 of Arms Act, at Police Station Model Town, Panipat. He was tried along with the co-accused and held guilty for offences punishable under Sections 302, 307, 353, 186, IPC and Sections 25, 27 of Arms Act. The petitioner and the co-accused were sentenced to life imprisonment along with payment of fine for offence under section 302 read with Section 34 IPC. A Criminal Appeal No. 203 DB of 2006 was preferred against the conviction and sentence and the appeal was dismissed as was the SLP filed against the said judgement. The petitioner applied for

premature release on completion of 11 years actual imprisonment and 14 years of total sentence including the remission. This matter was put up before the State-Level Committee and his request for premature release was turned down on the ground that the petitioner was required to undergo 14 years of actual sentence including under trial, provided that the total period of such sentence including remission is not less than 20 years and the said period was not completed. The case of the petitioner was considered again on completion of 14 years of actual sentence including under trial, and 20 years of total sentence including remission, but by an order dated 28.4.2020 the matter was deferred for a period of 2 years. Aggrieved by the impugned order, the instant petition has been filed.

3. Mr. Vikram Punia, learned counsel appearing on behalf of the petitioner, contends that the order dated 28.4. 2020 is an illegal, arbitrary and whimsical as the petitioner has completed actual sentence of 15 years 3 months 1 day and has earned remission of 7 years 6 months 6 days as on 1.4.2020. He was taken into custody of 31.12.2004 and was in custody as an under trial. Learned counsel for the petitioner relies upon the policy dated 12.4.2002 which was on force on the date of his conviction. It is submitted that as per policy, premature release of a life convict who has committed a heinous crime such as murder, murder while undergoing life sentence, murder with Dacoity, murder in connection with dowry, murder of a child under the age of 14 years, murder of a woman, murder after abduction or kidnapping etc. may be considered after completion of 14 years actual sentence including under trial with a proviso that the total period of such sentence including remission is not less than 20 years. It is submitted that as

per the policy, the petitioner was fully eligible for premature release and his case could not have been deferred for a further period of 2 years.

4. Mr. Gurmeet Singh Dhillon, learned counsel appearing on behalf of the respondent state, argues that the petitioner cannot claim premature release as a matter of entitlement. The case of the petitioner was considered for premature release and by keeping in view the crime committed by the petitioner wherein one police officer had been killed, it was decided that his release would not be in public interest, as he was still young.

5. I have heard the counsel for the parties and with their assistance have perused the pleadings and the judgments relied upon.

6. The facts are not in dispute to the extent, that the petitioner has been convicted under FIRNo. 413 dated 30.12.2004 and has been awarded life imprisonment by the judgement and sentence dated 11.2.2006 or the fact that he has completed almost 15 years 3 months 1 day and has earned remission of 7 years 6 months 6 days as on 1.4.2020. The impugned order also acknowledges the fact that he has completed the said period but has dismissed the plea for premature release primarily on the ground that his release would not be in public interest as a police officer was killed and that the petitioner is still a young person.

7. Life imprisonment is a sentence of imprisonment for a crime under which convicted people are to remain in prison for the rest of their natural lives or until their case is put up for consideration for grant of premature release .The Supreme Court in **Maru Ram v. Union of India**, **AIR 1980 S.C 2147** has held that, life imprisonment means, imprisonment

for the remaining period of the prisoners actual life. The State Governments have been formulating policies from time to time, with regards to premature release of a person convicted with life imprisonment and the policy in existence at the time the accused was convicted would be applicable .This stands settled in **State of Haryana Vs. Jagdish 2010(2(RCR (Criminal) 464.**

8. The petitioner was convicted on 11.2.2006 and therefore Policy dated 12.4.2002 regarding premature release to life convicts would be applicable. As per the policy, the case for premature release of a person convicted for life, having committed a heinous crime, as enumerated in para 2(a), would be considered on completion of 14 years actual sentence including under trial period, provided that the total period of such sentence including remission is not less than 20 years. The case of the petitioner was considered initially by State-Level Committee and was rejected on 13.06.2016 by taking into consideration that the petitioner had not completed the mandatory period of 14 years of actual sentence including under trial period. The second rejection for premature release is on the ground that he is a young person and his release would not be in public interest, while stipulating that his case would be reconsidered after a period of 2 years. The rejection primarily on the ground of the age of the petitioner appears to be unwarranted. Once the State Government has laid down guidelines for premature release, it was incumbent upon it to give reasons for not applying the policy. The age of the petitioner cannot be held against him, as there is no indication that he will commit a similar offence once released. The respondent state has not taken into consideration that that the

petitioner had availed of parole on several occasions, that is, of 115 weeks and no such complaint had been received regarding misuse of concession of parole.

9. In a recent judgement rendered by the Supreme Court in **Satish @ Sabbe Versus The State of Uttar Pradesh, Special Leave Petition (Criminal) No. 7369 of 2019** decided on 30.9.2020, it was held that:

“18. It would be gainsaid that length of the sentence or the gravity of the original crime can’t be the sole basis for refusing premature release. Any assessment regarding predilection to commit crime upon release must be based on antecedents as well as conduct of the prisoner while in jail, and not merely on his age or apprehensions of the victims and witnesses. As per the States own affidavit, the conduct of both the petitioners has been more than satisfactory, they have no material criminal antecedents, and have served almost 16 years in jail (22 years including remission) therefore being about 54 and 43 years old, they still have substantial years of life remaining, but that doesn’t prove that they retain a propensity for committing offences. The respondent state’s repeated and circuit was reliance on age does nothing but defeat the purpose of remission and probation, despite the petitioners having met or statutory requirements for premature release.”

The ratio of the aforesaid judgement can be applied in the instant case as well.

10. In view of the above, the present petition is accepted and the impugned order, dated 28.4.2020 [Annexure P/4] is set-aside and the matter is remitted back to the Principal Secretary, Home Affairs and Justice, Haryana, for passing a fresh order taking into consideration policy dated

12.4.2002 [Annexure P/1] and in the light of observations made above,
within a period of two months from receipt of copy of this order.

11. The petition stands disposed of.

March 19, 2021
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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No