

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(119)

CRWP-10819-2020

Date of decision: 24.08.2021

Sahib Singh @ Sabi

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Vikram Satpal Anand, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab
for the respondents-State.

...

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to Covid-19 pandemic.

Instant petition has been filed under Article 226 of the Constitution of India for issuance of a direction to respondents No.2 and 3 to consider the case of the petitioner for commutation of his sentence and premature release from the jail as he has already undergone more than 20 years as per the provisions of Section 433 of the Code of Criminal Procedure, 1973.

Reply by way of affidavit of officiating Superintendent, Central Jail, Bathinda, has been filed on behalf of respondents No.1 to 3, wherein

it has been stated that besides facing trial in FIR No.77 dated 01.04.2018 under Section 42 of Prisons Act, 1894, registered at Police Station Gate Hakima, Amritsar, the petitioner has been convicted and sentenced in the following cases:-

“a) FIR No.83 dated 23.09.1999, U/S: 302/326/324/395/397/342/148/149 IPC, P.S.-Goindwal Sahib, District Amritsar by the learned court of Sh.Dhian Singh, Addl. Sessions Judge (Adhoc) Fast Track, Amritsar vide order dated 06.10.2003, sentence as under:-

<i>Under Section</i>	<i>Sentence</i>	<i>Fine Rs/-</i>	<i>In Default</i>
<i>302/149 IPC</i>	<i>R.I. for a period of life.</i>	<i>Rs.2,000/-</i>	<i>Undergo RI for 02 months.</i>
<i>460 IPC</i>	<i>R.I. for a period of 10 years.</i>	<i>Rs.1,000/-</i>	<i>Undergo RI for 01 month.</i>
<i>326/149 IPC</i>	<i>R.I. for a period of 04 years.</i>	<i>Rs.1,000/-</i>	<i>Undergo RI for 01 month.</i>
<i>395 IPC</i>	<i>R.I. for a period of 04 years.</i>	<i>Rs.1,000/-</i>	<i>Undergo RI for 01 month.</i>
<i>324/149 IPC</i>	<i>R.I. for a period of 01 year.</i>	<i>-----</i>	<i>-----</i>
<i>397 IPC</i>	<i>R.I. for a period of 07 years.</i>	<i>Rs.1,000/-</i>	<i>Undergo RI for 01 month.</i>
<i>342 IPC</i>	<i>R.I. for a period of 06 months</i>	<i>-----</i>	<i>-----</i>

Fine paid & all the sentence shall run concurrently.

b) *FIR No.46/2010, U/S 22(c) NDPS Act, P/S: Goindwal Sahib, by the learned court of Sh. Baljinder Singh Additional Sessions Judge, Taran Taran vide order dated 15.10.2014, U/s 22(c) NDPS Act, sentenced to undergo RI for 10 years, fine of Rs.1,00,000/- and in default of fine RI for 01 year. Released on bail on 05.04.2018 vide order passed by the Hon'ble High Court at Chandigarh in Criminal Appeal No.698-SB of 2015 & vide release order No.1019 dated 05.04.2018 passed by the learned court of Sh.Sumit Bhalla, Chief Judicial Magistrate, Taran Taran.*

c) *FIR No.47/2009, U/S : 8(2) GGC. PPR, Act, 1962 PS Goindwal Sahib, by the learned court of Sh. R.K.Condel, CJM, Taran Taran vide order dated 07.12.2011, U/S: 8(2) GGC PPR Act, 1962, sentenced to undergo RI for 06 months. (Sentence completed on dated 07.12.2011)."*

It has been further submitted as under:-

"4. That earlier the petitioners pre mature release case was forwarded to the office of Addl. Director General of Police (Prisons), Punjab Chandigarh vide letter No.1164/AR dated 26.12.2017. While the petitioner was undergoing sentence in Central Jail Amritsar FIR

No.77, dated 01.04.2018, U/S 42 Prison Act. PS : Gate Hakima, Amritsar Sahib, was register (Sic registered) against the petitioner which is clearly a Jail offence. The pre-mature release case of the petitioner was rejected by the Govt. of Punjab vide Memo No.1/56/2018-1G7/1572967/1 dated 12.09.2019 as the petitioner has committed the jail offence and it was also directed in the aforesaid memo that pre mature release case of only those prisoners must be forwarded who have not committed any jail offence for a period of 5 years prior to the date of eligibility or the Hon'ble High Court have directed to consider the case. According to the policy dated 08.07.1991 the petitioner completed the sentence as per policy but the Section B(ii) of the policy clearly states that the premature release case of the convict will only be considered provided that the convict have not committed any jail offence for a period of 5 years prior to the date of eligibility (A true typed copy of the pre mature release policy dated 08.07.1991 as annexure R-2). Since the petitioner has committed jail offence on dated 01.04.2018, as per pre mature release policy Section B(ii) the petitioner pre mature release is to be considered after 05 years from the date of commission of jail offence. (True translated typed copy

*of Punjab Govt. Home (Jails) Department Memo
No.1/56/2018-1G7/1572967/1 dated 12.09.2019 is
annexed as Annexure R-3.”*

In view of the above position, as the case of the petitioner has
been considered and order dated 12.09.2019 has not been challenged, no
direction is required to be issued.

Petition is dismissed.

(SUVIR SEHGAL)
JUDGE

24.08.2021
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes/No