

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-1437-2020

Date of Decision:29.03.2022

Rajinder Singh

...Petitioner

Versus

The State of UT Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. H.S. Jaswal, Advocate,
for the petitioner.

Mr. Abhinav Gupta, Addl. PP
for respondent-UT Chandigarh.

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

SANT PARKASH, J.

The petitioner has filed the present petition under Article 226/227 of the Constitution of India for issuance of writ in the nature of certiorari for quashing/setting aside the impugned order dated 18.09.2019 (P-5) passed by respondent No.1, whereby the premature release case of the petitioner has been rejected. Further prayer has been made for issuing directions to the respondents to release the petitioner from custody, as per the policy/instructions dated 08.07.1991 (P-2)

The petitioner was arrested in case FIR No.42 dated 24.03.1997 under Section 302 of the Indian Penal Code, 1860 registered at Police Station, Sector-3, Chandigarh. The petitioner was convicted for the aforementioned offence and sentenced to undergo life imprisonment vide

judgment and order dated 14.12.2000 passed by the learned Sessions Judge, Chandigarh.

Aggrieved by the said judgment, the petitioner preferred an appeal bearing CRA-D-164-DB-2001 before this Court, which was dismissed on 02.09.2009.

The petition has been opposed by the respondents/State in terms of reply filed by way of affidavit of Mr. Pradhuman Singh, HCS, Additional I.G. Prisons-cum- Superintendent Model Jail, Chandigarh.

Learned Counsel for the petitioner has contended that the pre-mature release case of the petitioner is totally covered as per the policy dated 08.07.1991 (P-2). He has further contended that as per the said policy/instructions, the petitioner had to undergo maximum 10 years of actual sentence and 14 years of total sentence including remissions, whereas the petitioner has already undergone more than 18 years of actual sentence and more than 22 years of total sentence including remissions. Thus, further detention of the petitioner is illegal and against the said Govt. policy and violation of Article 21 of the Constitution of India. He also submits that the conduct of the petitioner remained good in jail.

On the other hand, learned State Counsel has strongly opposed the present petition on the ground that the petitioner, who was serving as Head Constable, had murdered SI Singh Ram by giving gun shot injuries. He has further submitted that the pre-mature release case of the petitioner was rightly rejected by respondent No.1 vide order dated 18.09.2019 (P-5) on the ground that case of the petitioner has not been found fit, keeping in view the facts and circumstances as well as opinion of learned trial Court.

He also submitted that the date of conviction of the petitioner is 14.12.2000 therefore, the premature policy dated 08.07.1991 would be applicable in his case.

This Court has heard the learned counsel for the parties and perused the case file.

Status report has been filed and the same is taken on record.

This fact is not disputed that the case of premature release of a life convict is governed by the policy of the Government prevailing on the date of judgment of conviction and not by the policy which existed on the date of consideration of his premature release. It is brought to the notice of the Court by the learned counsel for the State that the Chandigarh Administration vide gazette notification dated 02.04.1997 had adopted the Punjab Jail Manual, 1996 for the purpose of considering premature release of prisoners. Undisputedly, at the time of conviction of petitioner i.e.14.12.2000, the prevailing policy for pre-mature release of convicts was Premature Release Policy dated 08.07.1991.

The State government vide letter dated 08.07.1991 revised the policy regarding pre-mature release of life convicts. The relevant portion thereof reads as under:-

“1.1 Minimum periods of imprisonment to be undergone for the convict before consideration of application for exercise of powers of the Government under Article 161 of the Constitution.

Cases will be considered by the Government grant of remission after the following periods of imprisonment are undergone by the convicts:-

(Period of years)

		Adults		Female	
		Actual imprisonment	Imprisonment with remission	Actual imprisonment	Imprisonment with remission
A	For convicts whose death sentence has been committed to life imprisonment	14	20	10	14
B	Convicts who have been imprisoned for life for offences for which death is a punishment and have committed heinous crime	12	18	8	12
C	Convicts who have been imprisoned for life for offences for which death is a penalty but crimes are not considered heinous	10	14	8	12
D	Other life convicts imprisoned for life for offences for which the death penalty is not a punishment and have committed heinous crimes	10	14	8	12
E	Other life convicts	8	14	6	18

- A. Heinous crimes with reference to column 'B' of 1 (1) above are defined as follows:-
- i) Offence under Section 302 along with 347 of the I.P.C. i.e. murder with wrongful confinement for extortion.

ii) Section 302 with 375 i.e. murder with rape.

iii) Offence under Section of IPC i.e. dacoity with murder.

iv) Offence under Section 302 along with offences under the Terrorist and Disruptive activities (Prevention Act, 1987).

v) Offence under Section 302 along with offences under the untouchability (offences) Act, 1955.

- vi) Offence under Section 302 where murder has been committed in connection with any dispute over dowry and this is indicated in the judgment of the trial court.
- vii) Offence under Section 302 where the victim is a child under the age of 14 years.
- viii) Any conviction under Section 120-B of the IPC heinous crimes with reference to column "D" of the revised policy are defined as follow:-

i) to vii) xx xx xx

B. xxxx xx

Admittedly, the petitioner was convicted for the murder of SI Singh Ram by causing gun shot injuries. Accordingly, he was convicted by the learned Sessions Judge for the offence under Section 302 IPC vide judgment dated 14.12.2000 and was sentenced to undergo rigorous imprisonment for life. As per the policy/instructions dated 08.07.1991 (P-2), the case of the petitioner falls under column 'C', according to which, the case of the petitioner could be considered for pre-mature release after completion of 10 years of actual imprisonment and 14 years of imprisonment, including remissions. As per the custody certificate dated 05.01.2022 annexed with the status report, the petitioner has already undergone 18 years, 03 months and 10 days of actual sentence and 22 years, 09 months and 15 days of sentence including remissions. From the perusal of the case file, it emerges that the case of the petitioner for premature release was declined by respondent No.1 without recording any definite reason. Thus, the case of the petitioner is squarely covered as per the said policy dated 08.07.1991 (P-2). As such, the petitioner is entitled to be released prematurely.

Moreover, the policy has been framed for the benefit of the convicts and for the welfare of the prisoners. Further, as per Clause (II) of the said policy, the overall conduct of the life convict during his confinement in jail with specific emphasis on his/her conduct for the last five years from the date of his/her eligibility for consideration of pre-mature release is to be seen and the convict has not punished for any jail offence during the last five years.

Considering the facts and circumstances of the case, this Court is of the considered view that the case of the petitioner is squarely covered as per the said policy dated 08.07.1991 (P-2). The purpose of framing the policy is for the welfare and benefits of the convicts. Since the petitioner has already undergone more than the requisite sentence as per the said policy, the present writ petition is allowed. The impugned order dated 18.09.2019 (P-5) is set aside. The petitioner be set at liberty forthwith, if is not required in any other case.

29.03.2022
mks

(SANT PARKASH)
JUDGE

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO