

In the High Court of Punjab and Haryana at Chandigarh

**CRWP No. 2133 of 2022
Date of Decision: 10.3.2022**

Gitta alias Raghubir Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. L.S.Sidhu, Advocate for the petitioner.

Mr. Pardeep Prakash Chahar, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

(Through video conferencing)

1. The petitioner became convicted by the learned Additional Sessions Judge, Sirsa for a charge being drawn against him under Section 302/34 IPC. The learned Additional Sessions Judge, Sirsa also after making a verdict of conviction upon the petitioner, proceeded to sentence him to undergo imprisonment for life.

2. After the making of the afore verdict in the year 2002, the petitioner claimed his being granted the benefit of Annexure P-4. The relevant portion of Annexure P-4, is extracted hereinafter.

	X	X	X	X
(a)	Convicts whose death sentence has been commuted to life imprisonment and convicts who have been imprisoned for life having committed heinous crime including 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 with rape.
- iii. Murder while undergoing life sentence.
- iv. Murder with dacoity.
- v. Murder with offence under TADA Act, 1987.
- vi. Murder with untouchability (offences) Act, 1955.
- vii. Murder in connection with dowry.
- viii. Murder of a child under the age of 14 years.
- ix. Murder of a woman.
- x. Murder after abduction or kidnapping.
- xi. Murder on professional/hired basis.
- xii. Murder exhibiting brutality such as cutting the body into pieces or burning/dragging the body as evident from judgment of the Court.
- xiii. Persistent bad conduct in the prison.
- xiv. Convicts who cannot for some definite reasons be prematurely released without danger to public safety.
- xv. Convicts who have been imprisoned for life under Section 120-B IPC.
- xvi. Convicts who have been awarded life imprisonment a second time under any offence.
- xvii. Any other crime that the State Level Committee considers to be 'heinous' for reasons to be recorded in writing.

X X X X

3. Though, within the ambit of the afore extracted relevant portion of Annexure P-4, the life convict-petitioner herein has since the year 2002, spent 14 years of the sentence of life imprisonment, as became imposed upon him, by the learned Additional Sessions Judge, and, also when it is candidly recorded in the impugned order, as, appended to the petition, as Annexure P-5, that the afore extracted relevant portion of Annexure P-4, is applicable to the petitioner. However, the authority pronouncing the impugned order Annexure P-5, proceeded to decline to the life convict-petitioner herein, the benefit of Annexure P-4, only on the untenable ground that the murder, as committed by the life convict, was done in a gruesome, and, diabolical manner, inasmuch as it becomes eclipsed by his spending 14 years in prison.

4. In addition, the authority pronouncing the impugned order, ordered for reconsideration of the petitioner's claim, for his being granted the benefit of Annexure P-4, after two years, since the making of impugned Annexure P-5. Both the afore meted reasons in Annexure P-5, are, unmeritworthy, and, require to be quashed, and, annulled. The reasons which prevail upon this Court to set aside the impugned order, is grooved in the factum that when the relevant portion of Annexure P-4, rather delineating the factum, that even if the life convict had, in a gruesome, and, in diabolical manner, murdered a woman, yet in the face of the afore ill-event, the life convict-petitioner herein becoming entitled to receive the benefit of Annexure P-4, if he had, since the making of the verdict of conviction upon him, and, the imposition upon him of the sentence of life imprisonment, rather spent 14 years in jail. Since admittedly the petitioner has spent 14 years in jail, imperatively after his receiving the verdict of

conviction, thereupon, even if he had committed the murder of the deceased woman, purportedly in a gruesome, and, diabolical manner, yet the afore spent period of 14 years by the life convict-the petitioner herein, hence in jail, rather was a sufficient reason, for the authority pronouncing the impugned annexure, to grant him the benefit of Annexure P-4.

5. Be that as it may, if the petitioner was completely debarred from claiming the benefit of Annexure P-4, thereupon, the authority making Annexure P-5, could not proceed to, in the operative part of the order, make a direction for re-consideration of his claim for premature release, after two years since the making of Annexure P-5. The afore operative part of Annexure P-4, does also ensure emergencies, of a weighty reason, that hence the authority pronouncing the impugned Annexure P-5, proceeded to dispel the prior thereto reasoning, as, carried in paragraph 2, appertaining to the denial of benefit by the life convict, owing to his committing the murder of a woman in a gruesome, and, diabolical manner. Even otherwise, if the life convict-the petitioner herein, as stated above, has spent 14 years in prison, thereupon, there was no occasion for the authority, hence making the impugned annexure, to prolong his claim for premature release, after two years, since the making of Annexure P-5.

6. There is merit in the petition, and, the same is allowed. The impugned order is quashed, and, set aside.

7. However, the authority making Annexure P-5, is directed to re-consider the application for premature release, as made before it, by the life convict-the petitioner herein, and, to pass a fresh decision thereon, in

accordance with the relevant policy. The re-decision upon the application concerned, be made within three weeks hereafter.

(SURESHWAR THAKUR)
JUDGE

March 10, 2022
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes