

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRWP-2604-2022
Date of decision: 02.04.2022

RANBIR SINGH ALIAS FAUJI ...Petitioner

Versus

STATE OF HARYANA AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Hoshiar Singh Jaswal, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, DAG, Haryana.

SURESHWAR THAKUR, J.

1. The life convict petitioner herein claimed, in consonance with the apposite policy, as became framed by the State of Haryana, and, appertaining to pre-mature release of life convicts, hence the benefits thereof. The apposite policy becomes embodied in Annexure P-6. The competent authority through an order carried in Annexure P-8 declined the afore relief to the petitioner. The claimed relief (supra), as propagated by the petitioner becomes anchored, upon the factum, that it does falls within the ambit of Clause (a), wherein the hereinafter extracted contemplations occur, inasmuch as, his claim being amenable for consideration upon completion of 14 years of actual sentence including undertrial period.

(a)	Convicts who have been imprisoned for life having committed a heinous crime such as:-	Their case may be considered after completion of 14 years actual sentence including undertrial period provided that such sentence including remissions is not less than 20 years.
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2. The opening of the above extracted clause mandates, that the life convict would be entitled to the benefit of the apposite policy only, upon his spending 14 years of actual sentence in prison, inclusive of undertrial period but with a proviso thereto inasmuch as, the sentence concerned, including remissions being not less than 21 years. Therefore, unless cogent material became adduced on record, and, its displaying, that despite the life convict spending 14 years of actual sentence in prison, yet as ordained by the proviso thereto (supra), yet if his total sentence including remissions being not less than 20 years, thereupon, the claimed benefit was not accordable to the petitioner. Conspicuously, since the afore material has not been placed on record, nor is alluded in the impugned order. Therefore, *prima-facie* the denial of relief to him, through the impugned order appears to be *prima-facie* legally shaky, and, infirm.

3. Moreover, the brutality of the commission of the offences, and, also the order of sentence, as made, upon the life convict, the relevant portion whereof becomes extracted hereinafter, became the reckonable factum probandum. Furthermore, his repeatedly indulging in commission of heinous crimes, are also factor(s) to be borne in mind by the competent authority in granting or refusing the claimed benefit to the petitioner. Moreover, the factum of his during the earlier granted to him parole absconding, and, his ill prison conduct, if any, are also enjoined to become borne in mind in the making of an order, upon, the application concerned.

“76. Under section 307 of IPC, when the offence was committed by the person already under going life imprisonment and if hurt is caused, then he may be punished with death. But it is not a rarest among rare cases warranting capital punishment. Therefore, convict Ranbir alias Fauji is not liable to be sentenced for capital punishment. Consequently, in the totality of the facts and circumstances of the case in hand, convict/accused Ranbir alias Fauji is hereby sentenced for rigorous imprisonment for life and for fine of Rs. 10,000/-, in case of default of

payment of fine further rigorous imprisonment for a period of three years for offence punishable under section 307 read with section 149 of IPC. It is made clear that life imprisonment means life without any remission or commutation. He is further sentenced for rigorous imprisonment for a period of one year and for a fine of Rs. 1000/-, in case of default of payment of fine further rigorous imprisonment for a period of two months, for offence punishable under section 353 read with sec. 149 IPC. He is further sentenced for rigorous imprisonment for a period of two years and for a fine of Rs. 2000/-, in case of default of payment of fine further rigorous imprisonment for a period of four months, for offence punishable under section 148 read with sec. 149 IPC. He is further sentenced for rigorous imprisonment for a period of two years and for a fine of Rs.2000/-, in case of default of payment of fine further rigorous imprisonment for a period of four months, for offence punishable under section 25 of Indian Arms Act. However, all the sentences shall run concurrently.”

4. Be that as it may, the sentence of life imprisonment, as became imposed, upon the convict petitioner herein, was in respect of FIR bearing No.188 of 19.09.2003, registered at Police Station Sadar Rohtak. The verdict, as made upon the afore FIR was on 06.11.2004. In consequence to the afore verdict of conviction being made, upon the petitioner for a charge drawn against him under Section 307 IPC, he became sentenced to undergo imprisonment for life. Though, he preferred an appeal against the afore verdict through his casting an appeal bearing Criminal Appeal No.15-DB-2005, before the Court. However, through a decision made thereons on 11.07.2006, rather this Court dismissed the appeal (supra), and, affirmed the verdict (supra), as became recorded by the learned Additional Sessions Judge, Rohtak, upon sessions case No.30 of 01.12.2003.

5. The learned counsel appearing for the petitioner, yet argues that there is yet an untenable denial to the petitioner's claim, through the making of the impugned order. He rests the above argument on the above extracted clause

(c), of the apposite policy. Moreover, he makes a reference to the custody certificate appended with the instant petition, wherein it is mentioned, that the period spent in prison by the life convict in pursuance to the apposite verdict made on 17.03.2016 rather is 33 years 11 months, and, 21 days. Therefore, he contends that the petitioner's claim is covered by the hereinafter extracted clause (aa) of the relevant policy, wherein, it is mentioned that the claim for premature release from prison, as made by life convict, can be considered after completion in prison of 20 years of actual sentence, and/or, upon completion in prison, of 25 years total sentence with remissions, and, that when he has rather beyond terms thereof suffered imprisonment, hence he becomes entitled to relief.

(aa)	Convicts whose death sentence has been commuted to life imprisonment and convicts who have been imprisoned for life having committed a heinous crime such as:-	Their case may be considered after completion of 20 years actual sentence and 25 years total sentence with remissions.
(i)	Murder after rape repeated/ chained rape/unnatural offences.	
(ii)	Murder with intention for the ransom	
(iii)	Murder of more than two persons	
(iv)	Persons convicted for second time for murder	

6. However, for the reasons to be assigned hereinafter, the afore made contention cannot be accepted, as in paragraph 3 of the impugned order, detailings occur, qua apart from Sessions Case No.30 of 01.12.2003, whereupon, a conclusive, and, binding verdict has been recorded against the convict, for a charge drawn against him under Section 307 IPC, and, whereafter the imposed upon him sentence of life imprisonment, has also become affirmed, rather the

life convict becoming also convicted, and, sentenced to life imprisonment qua a charge drawn under Section 302 IPC. The relevant instant FIR is carried in FIR No.10 of 22.09.1989, and, is registered at Police Station Sadar Rohtak. Moreover, qua FIR No.5 of 07.01.1996, registered at Police Station Nuh, and, constituting therein offences under Sections 302, 397 of IPC, the petitioner has been convicted, and, has also become sentenced to undergo life imprisonment, hence by the learned Sessions Judge, Gurugram.

7. The effect of the afore is that the benefit of the clause (aa) which becomes extracted above, accrues to life convicts, who become convicted, for a singular charge drawn against them for an offence embodied under Section 302 of IPC. The further sequel thereof, is that, in case the life convict becomes convicted in respect of FIRs, other than the relevant one, and, wherein become(s) embodied an offence under Section 302 IPC, and, also obviously sentence(s) of life imprisonment become imposed, upon the convict. Thereupon, the relevant clause becoming neither attracted qua the petitioner nor becoming applicable to him. The reason for making the afore conclusion, spurs from the factum of the above beneficial provisions becoming bestowable upon offenders, who commit a singular offence of murder, but where multiple offences of murder are committed, and, the offender becomes convicted, thereupon, the hardcore criminality of the offender concerned, becomes candidly underlined, and, obviously becomes an apt disqualification for the relevant purpose.

8. A reference to the afore two verdicts of conviction as made, upon the petitioner in respect of offences constituted under Section 302 IPC, is rather the relevant fortifying foundational fact(s), to bolster the above inference.

9. Be that as it may, and, reiteratedly the verdict of conviction as made, upon the petitioner herein in two FIRs other than the instant one, and,

both carrying offences embodied under Section 302 IPC, becomes the striking standpoint, for analyzing the vigor of the afore arguments addressed before this Court. The reason being that, the above extracted clause (aa) carried in the policy, appears to be made with respect to the period spent in prison by the life convict concerned, in pursuance to his becoming singularly convicted, and, becoming singularly sentenced to undergo life imprisonment, and/or, in other words rather becomes attracted, only in respect of a singular FIR, and, not when he becomes convicted in a duo of FIRs, each embodying therein, an offence under Section 302 IPC, and, in pursuance whereof he becomes sentenced to undergo imprisonment for life. The further reason for the afore conclusion, is drawn from the factum, that the relevant clause, does omit, to mention therein, the pre eminent fact, qua the afore spent period in prison, being arrived at, after addings of the sentence(s) of life imprisonment, as, become/became imposed, upon the convict, in two other FIRs, than the extant one. Therefore, this Court, cannot *prima-facie*, at this stage disagree with the reason assigned by the competent authority, in the latter declining the petitioner's claim for his being prematurely released from prison.

10. Moreover, since as reflected in the impugned order, the petitioner absconded during the period of his earlier granted parole, and, also indulged in ill conduct during the period of his spending time in prison, therefore, this Court does not deem it fit, and, appropriate to allow the petition. Consequently, the petition is dismissed, and, the impugned order is affirmed, and, maintained.

11. Disposed of.

(SURESHWAR THAKUR)
JUDGE

02.04.2022

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Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No