

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP-11248-2021

Date of Decision:-**23.05.2022**

RAJINDER YADAV

... Petitioner(s)

Versus

STATE OF PUNJAB AND ORS

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Sanjeev Manhas, Advocate
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

KARAMJIT SINGH, J. (Oral)

Instant petition has been filed by the petitioner under Article 226 of Constitution of India read with Section 482 Cr.P.C. for issuance of direction to the respondents to consider and decide his premature release case in the light of Punjab Government Premature Release Policy dated 8.8.2021 (Annexure P-1), which was prevailing at the time of his conviction.

Counsel for the petitioner contends that he will be satisfied if necessary direction is given to the Chief Secretary, Government of Punjab, Department of Home Affairs and Justice to decide the case of the petitioner without any delay in terms of the latest judgment passed by the Coordinate Bench of this Court in CRWP-7180-2021 titled as Jai Kishan @ Bhola vs. State of Punjab and Others decided on 11.2.2022. As per which, 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. The counsel further contends that at the time of the conviction of the petitioner i.e. 21.11.2011, the prevailing policy for premature release of convicts was Premature Release Policy dated 8.8.2011. As per this policy, for considering the case of premature release, the condition required for life convict was to undergo 12 years actual sentence and 18 years of sentence with remissions. The counsel further contends that in the present case the petitioner has already undergone actual sentence of more than 12 years and more than 18 years of sentence with remissions. The counsel further contends that in view of the aforesaid factual position and the settled law, the petitioner is entitled to be released immediately from the custody without any further delay. In support of his contentions, counsel for the petitioner also referred to latest judgment of Supreme Court titled as A.G. Perarivalan vs. State, Through Superintendent of Police CBI/SIT/MMDA, Chennai, Tamil Nadu and Anr., Criminal Appeal Nos.833-884 of 2022 @ SLP (CrI.) Nos.10039-10040 of 2016.

On the other hand, State counsel contends that as per the reply filed on behalf of respondents No.1 to 3, the case of the petitioner is under active consideration of the office of Additional Director General of Police (Prisons), Punjab, Chandigarh and is going to be decided very shortly by the said authority in accordance with law.

In the reply filed on behalf of State, it has been admitted that the petitioner was convicted and sentenced life imprisonment and to pay fine of ₹10,000/- and in default to further undergo rigorous imprisonment for offence punishable under Section 396 IPC and to undergo imprisonment for 3 years under Section 148 IPC (both the sentences to run concurrently) vide judgment dated 21.11.2021 passed by the Court of Additional Sessions Judge, Ludhiana in case bearing FIR No.7 dated 26.2.2005 registered under Section 302, 148, 149, 337, 396 IPC and Section 25 of Arms Act at Police Station GRP Sirhind and the appeal filed by the petitioner was dismissed by this Court vide judgment dated 21.11.2014 and presently, he is undergoing life imprisonment in Central Jail, Ludhiana. The State, in its reply also admitted that the petitioner has undergone 16 years, 6 months and 22 days of actual custody excluding parole period and 18 years, 10 months and 21 days of custody with remissions and custody certificate is Annexure R-1.

Admittedly as the petitioner was convicted by the trial Court on 21.11.2011, his case is covered under prevailing policy for premature release of convicts dated 8.8.2011. As per the said policy for considering the case of premature release, the conditions required for life convict is indicated as 12 years of actual sentence and 18 years of sentence with remissions. The

aforesaid minimum period of sentence has already been covered by the petitioner as has been admitted by the State in its reply.

In the light of the above, the concerned authorities are directed to consider and decide the case of petitioner for premature release as per the policy dated 8.8.2011 within a period of one month from the date of receipt of copy of this order failing which the concerned jail authorities are directed to release the petitioner on interim bail, subject to his furnishing fresh bail bonds to the satisfaction of CJM/Duty Magistrate Ludhiana, in the meantime, pending consideration of the case of petitioner for premature release in pursuance to aforesaid directions.

(KARAMJIT SINGH)
JUDGE

23.05.2022
Gaurav Sorot

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No