

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRWP-2105-2019

Date of Decision:22.02.2022

Rattan Singh @ Rattan Lal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. Sanjiv Gupta, Advocate,  
for the petitioner.

Mr. Amreek Singh Narwal, DAG, Haryana.

[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 of the Constitution of India for issuance of writ in the nature of mandamus directing the respondents to release the petitioner prematurely in view of the Govt. Policy dated 12.04.2002 (Annexure P-2) in the category of requisite sentence of 14 years keeping in view the provisions of Section 482 Cr.P.C. read with Section 433-A Cr.P.C.

The petitioner was arrested in case FIR No. 24 dated 27.02.2002 under Sections 377/302 of the Indian Penal Code, 1860 registered at Police Station Hassanpur, District Faridabad. The petitioner was tried for the aforesaid offences and after completion of trial, the petitioner was convicted by the Court of learned Additional Sessions Judge Faridabad vide order dated 17.02.2004 and he was sentenced to death imprisonment. Aggrieved against the said judgment, Criminal Appeal

No.D-214-DB-2004 had been filed by the appellant before this Court. Vide judgment dated 23.09.2004, this Court held that the imposition of the death sentence was not called for and accordingly, imposition of death sentence upon the petitioner was converted into life imprisonment.

The petition has been opposed by the respondents/State in terms of reply filed by way of affidavit of Sanjeev Kumar, Superintendent Jail, Fardabad

Learned Counsel for the petitioner has contended that as per the policy of the Haryana Government dated 12.04.2002 (P-2), the petitioner is entitled for pre-mature release. He has further contended that the petitioner has undergone more than 19 years of actual sentence and more than 25 years of total sentence including remissions. Further detention of the petitioner is illegal and against the said Govt. policy and in violation of Article 21 of the Constitution of India. He also submitted that the petitioner always maintained good jail conduct and record. He has placed reliance on a judgment dated 24.07.2003 passed by this Court in **CRM-M-30109-M-2002 (Mahender Singh and others Vs State of Haryana and others)**. He argues that as per the said judgment, the case of the petitioner falls under clause 2(b) of the policy dated 12.04.2002 because the offence committed by the petitioner is not a heinous crime and as per the said clause a life convict is required to undergo 10 years of actual sentence and 14 years of total sentence including remissions, therefore, he may be released forthwith.

Finally, learned Counsel for the petitioner has prayed that the petitioner has already undergone the sentence as per policy dated

12.04.2002 and in view of the same, the present petition be accepted and the petitioner be set at liberty forthwith.

On the other hand, learned State Counsel has strongly opposed the present petition on the ground that the petitioner had committed unnatural sex with the minor child and thereafter committed murder hence he had committed a heinous crime. He has further submitted that as per the policy dated 12.04.2002 (P-2), the case of the petitioner falls in the category “heinous crimes” under clause 2(aa)(i) thereof, according to which, the case of the petitioner could be considered for pre-mature release after completion of 20 years of actual imprisonment and 25 years of total sentence including remissions.

I have heard the learned counsel for the parties and gone through the case file along with the relevant policy.

From the perusal of the reply dated 20.01.2020, it is evident that the petitioner has undergone 17 years, 11 months and 15 days of actual sentence and more than 22 years, 04 months and 15 days of total sentence. Thus, as on today, i.e. at the time of decision of the case, the petitioner has undergone 19 years, 02 months and 13 days of actual sentence after deducting parole period as prescribed in the policy and 25 years and 03 months of total sentence including remissions, which is not disputed by the State counsel.

In **Mahender Singh’s** case (supra), this Court observed that the petitioners had been found guilty for the commission of three murders. However, the imprisonment for life was imposed on each one of them by the trial court on three counts. The said imprisonment awarded on three counts was ordered to run concurrently. So, no discrimination could be done on the

basis of classification of two murders or three murders. There was no valid basis for the classification because Article 14 of the Constitution of India provides equality before law. It was also held that the provision of the policy is discriminatory and violative of Articles 14, 19 and 20 of the Constitution of India.

In similar circumstances, this Court in judgment dated 01.02.2011 (**Jai Parkash Billu Vs State of Haryana and others**), the petitioner, who was convicted and sentenced in FIR registered under Sections 302/364/377/511 IPC has released the petitioner on completion of 14 years of actual sentence despite the requirement as per the prevalent policy was that the petitioner had to undergo 20 years of total sentence including 06 years of remissions.

In the case in hand, the policy dated 12.02.2002 is applicable and as per clause 2 (aa)(i) thereof, the petitioner had to undergo 20 years of actual sentence and 25 years of total sentence including remissions on account of the fact that offences alleged to have been committed by him are covered under the said clause. Such distinction made in the policy is totally arbitrary and has certainly caused hardship to the petitioner, who has undergone more than 19 years, 02 months and 13 days of actual sentence and more than 25 years with remissions. Otherwise also, the total actual sentence undergone by the petitioner is only 10 months less than the sentence prescribed under policy dated 12.02.2022, even if the said policy is made applicable.

Further, as per Clause 4(i), 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. Hence, the petitioner in this case is also required to be treated at par and is entitled to the same/similar treatment for the purpose of premature release. Ordered accordingly. The petitioner be set at liberty forthwith, if is not required in any other case.

In view of the above, the present writ petition is allowed.

**22.02.2022**  
**mks/avin**

**(SANT PARKASH)**  
**JUDGE**

Whether Speaking/Reasoned: YES / NO  
Whether Reportable: YES / NO