

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-2316-2019

Date of Decision: 20.04.2022

Sahab Singh and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present: Mr. Lajpat Sharma, Advocate,
for the petitioners.

Mr. Gaurav Bansal, AAG, Haryana.

SANT PARKASH, J.

The petitioners have filed the present writ petition under Article 226/227 of the Constitution of India for setting aside the impugned orders dated 11.11.2019 (P-4 and P-5), vide which the claim of the petitioners for releasing them prematurely has been rejected. Further prayer has been made for issuing appropriate directions to the respondents to release the petitioners prematurely in view of the Govt. Policy dated 12.04.2002 (Annexure P-3).

The petitioners were arrested in case FIR No.523 dated 11.08.1996 under Section 304-A/302/34 of the Indian Penal Code, 1860 registered at Police Station Sadar Karnal, District Karnal. The petitioners were convicted for the offence under Section 302 read with Section 34 IPC by the Court of learned Additional Sessions Judge, Karnal, vide judgment of conviction dated 24.07.2002 and order of sentence dated 27.07.2002 and they were sentenced to undergo life imprisonment.

Aggrieved by the above-said judgment, the petitioners preferred an appeal bearing CRA-D-605-DB-2002 before this Court, which was dismissed by this Court on 16.07.2014.

The petition has been opposed by the respondents/State in terms of reply filed by Mr. Jagjit Singh, Inspector General of Prisons, Haryana.

Learned Counsel for the petitioners has contended that as per the policy of the Haryana Government dated 12.04.2002 (P-3), the petitioners are entitled for pre-mature release. He has further contended that as per the clause 2(b) of said policy/instructions, the petitioners had to undergo 10 years of actual sentence and 14 years of total sentence including remissions. He, thus, argued that since the petitioners have already undergone more than 13 years of actual sentence and more than 16 years and 09 months of total sentence including remissions, further detention of the petitioners is illegal and against the said Govt. policy and violation of Article 21 of the Constitution of India. He also submitted that the petitioners have not committed any jail offence.

On the other hand, learned State Counsel has strongly opposed the present petition on the ground that the petitioners had committed the murder of Rana Ranbir Singh in a brutal manner by hitting the Trax Vehicle on the back side of the scooter of the deceased and thereafter caused serious injuries, resulting into his death and thus, they committed a heinous crime. He has further submitted that as per medical evidence, there were total 13 injuries on the person of deceased. He has next submitted that on the basis of recommendations of the State Level Committee held on 10.09.2019, the competent authority passed the order dated 11.11.2019 to the effect that the

premature release case of the petitioners will be re-considered on completion of 14 years of actual sentence and 20 years of total sentence, keeping in view the injuries given with brutality to the deceased. As per the offence committed by the petitioners, their cases fall under clause 2 (a)(x) of the policy dated 12.04.2002, which prescribes the case of premature release may be considered after completion of 14 years of actual sentence and not less than 20 years with remissions. He further submitted that the date of conviction of the petitioners is 24.07.2002 therefore, the premature policy dated 12.04.2002 would be applicable in their case.

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

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. Undisputedly, at the time of conviction of petitioners i.e. 24.07.2002, the prevailing policy for pre-mature release of convicts was Premature Release Policy dated 12.04.2002.

The State government vide letter dated 12.04.2002 revised the policy regarding pre-mature release of life convicts. The relevant portion of para 2 thereof reads as under:-

(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 cases may be considered after completion of 20 years actual sentence and 25 years total sentence with remissions
(i) to (v)	xx xx xx xx xx	

(a)	Convicts who have been imprisoned for life having committed a heinous crime such as:-	Their cases may be considered after completion of 14 years actual sentence including under trial period provided of such sentence including remissions is not less than 20 years
(i) to (ix)	XX XX XX XX XX	
(x)	Murder exhibiting brutality such as cutting the body into pieces or burning/ dragging the body as evident from judgment of the Court.	
(xi) to (xiv)	XX XX XX XX XX	
(b)	Adult life convicts who have been imprisoned for life but whose cases are not covered under (aa) and (a) above and who have committed crime which are not considered heinous as mentioned in clause (aa) & (a) above.	Their cases may be considered after completion of 10 years actual sentence including under trial period provided that the total period of such sentence including remissions is not less than 14 years.
(c) to (e)	XX XX XX XX XX	

As per the reply dated 15.06.2020, petitioner-Sahab Singh has undergone 11 years and 10 days of actual sentence and including remissions he has undergone 14 years, 08 months and 15 days, while petitioner-Devender has undergone 11 years and 10 days of actual sentence and including remissions he has undergone 14 years, 09 months and 05 days as on 03.03.2020. Though, as on today, i.e at the time of decision of the case, the petitioners have already undergone more than 13 years of actual sentence and more than 16 years and 09 months with remissions.

Vide judgment dated 27.03.2008 passed by Co-ordinate Bench in CRM-M-30109-M-2002 (Mahender Singh and others Vs State of Haryana and others), 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 the case in hand, the policy dated 12.04.2002 (P-3) is applicable and as per clause 2(a)(x) thereof, the petitioners had to undergo 14 years of actual sentence and 20 years of total sentence including remissions on account of the fact that offences alleged to have been committed by them are covered under the said clause. Such distinction made in the policy is totally arbitrary and has certainly caused hardship to the petitioners who have already undergone more than 13 years of actual sentence and more than 16 years and 09 months with remissions. Thus, it can safely be held that as per the judgment passed in **Mahender Singh's** case (supra), the offence committed by the petitioners does not fall under the heinous category for the reason that if a convict is involved in the murder of more than two persons, even then he is to be considered for pre-mature release and the case in hand the petitioners have been convicted for commission of offence of murder with brutality. Therefore, the petitioners in this case were required to be treated at par and they are held entitled to the same/similar treatment for the purpose of premature release. Consequently, the cases of the petitioners are liable to be considered under clause 2(b) of the policy, which prescribes 10 years of actual sentence and

14 years of total sentence including remissions.

In the case in hand, the petitioners have already undergone more than 13 years of actual sentence and more than 16 years and 09 months of total sentence including remissions, which could not be disputed by the learned counsel for the State. Thus, the petitioners in this case are also required to be treated at par and are entitled to the same/similar treatment for the purpose of premature release. Further, as per clause 4(i) 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. Admittedly, the petitioners have not been punished for any jail offence during the last five years.

In view of the above, the present writ petition is allowed. The impugned orders dated 11.11.2019 (P-4 & P-5) are quashed. The petitioners be set at liberty forthwith, if are not required in any other case.

20.04.2022
mks

(SANT PARKASH)
JUDGE

Whether Speaking/Reasoned: YES / NO

Whether Reportable: YES / NO