

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

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CRWP-2402-2020

Date of Decision: 13.02.2023

Jasbir Singh

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Randeep S. Dhull, Advocate, for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana and
Mr. Pawan Kumar Jhanda, AAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

1. The instant petition has been filed on behalf of the petitioner seeking issuance of directions to the respondents to grant remissions to the petitioner, which have not been granted to him after 2014 on the premises that the petitioner had overstayed the period of furlough.
2. A few facts necessary to notice are that the petitioner stands convicted and sentenced to undergo life sentence vide judgment of conviction and order of sentence dated 03.04.2013 passed by the Additional Sessions Judge, Sonipat in case FIR No.154 dated 26.04.2009 registered at Police Station Sadar Sonipat, under Sections 302/148/149/120-B IPC and Section 25 of the Arms Act. The appeal against the judgment of conviction and order of sentence stands dismissed by this Court vide order dated 07.11.2017.
3. The petitioner had been ordered to be released on furlough for 3 weeks vide order dated 28.10.2014 passed by the District Magistrate, Sonipat and had been directed to surrender back on 19.11.2014. However, since the

petitioner did not surrender back on the given day and overstayed for 24 days, FIR No.457 dated 20.11.2014, under Sections 8 & 9 of the Haryana Good Conduct Prisoners (Temporary Release), Police Station Sadar, Sonipat was registered against the petitioner pursuant to a complaint moved by the Superintendent, District Jail, Sonipat. The petitioner was tried by the Judicial Magistrate 1st Class, Sonipat and was convicted for the said offences.

4. However, the authorities forfeited the remissions and did not grant any remissions to the petitioner on account of said FIR i.e. FIR No.457 dated 20.11.2014 having been lodged against him in which he was subsequently convicted.
5. Learned counsel for the petitioner submits that the petitioner had preferred an appeal challenging his conviction recorded by the Judicial Magistrate 1st Class, Sonipat vide judgment dated 13.07.2015 and the said appeal was allowed vide judgment dated 21.03.2016 (Annexure P-3) by the Additional Sessions Judge, Sonipat while duly taking note of the fact that the petitioner had suffered heart attack on 28.10.2014 and had undergone open heart surgery and was ultimately discharged from the PGIMS, Chandigarh on 12.12.2014. The relevant extract from the said judgment reads as under:

“From the statement of the Investigating Officer ASI Kuldeep Singh PW1, it is quite clear that the appellant/accused could not surrender before the Jail Authorities, Sonipat in time because he had sustained heart attack on 28.10.2014 itself and had undergone an open heart surgery. He was discharged from PGIMS, Chandigarh on 12.12.2013 with stitches on his chest and in a critical condition. Still, the appellant/accused surrendered himself before the District Jail, Sonipat on 13.12.2014. Therefore, the appellant/accused could not appear before the Jail Authorities, Sonipat in time due to the circumstances beyond his control and therefore, the trial Court erred in holding the appellant/accused guilty under Section 8/9 of the Act vide impugned judgment.”

6. The factum of acceptance of appeal certainly needs to be taken into account by the authorities concerned so as to consider the case of the petitioner for grant of remissions to which he is entitled to particularly when it is found that the reasons of absence of the petitioner for overstaying were beyond his control. The petition, as such, is accepted to the extent that the authorities concerned are directed to consider and dispose of the representations dated 17.10.2018 and 22.02.2019 (Annexures P-1 & P-2 respectively), if already not decided, expeditiously preferably within a period of one month from today and grant him the relief as he may be entitled to while not taking into the factum of registration of FIR No.457 dated 20.11.2014 since he already stands acquitted vide judgment dated 21.03.2016 and while also keeping in view the ratio of judgment dated 01.09.2017 delivered by the Division Bench of this Court in CRWP-866-2017 titled 'Ajay Vs. State of Haryana & others'.

13.02.2023

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**(GURVINDER SINGH GILL)
JUDGE**

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