

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRWP-3032-2022 (O&M)
Date of Decision:- 16.02.2023

Rajesh @ Raje

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. B.S.Rana, Senior Advocate with
Mr. Nayandeep Rana and Mr. Navdeep Doon, Advocates,
for the petitioner.

Mr. Gurmeet Singh, AAG, Haryana.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking issuance of a direction to decide his case pertaining to premature release on the basis of Policy dated 12.4.2002 (Annexure P-3).
2. A few facts necessary to notice for disposal of this petition are that the petitioner stands convicted for offence under Sections 148, 302 read with Section 149 IPC in a case arising out of FIR No. 296, dated 26.5.1998, Police Station Civil Lines, Rohtak, under Sections 148, 302, 120-B, 109, 216 read with Section 149 IPC and Section 25 of the Arms Act, wherein he has been sentenced to undergo rigorous

imprisonment for life and to pay fine amounting of Rs.5000/- for having been found guilty for offence under Section 302 read with Section 149 of IPC and rigorous imprisonment for 1 year and to pay fine amounting to Rs.1000/- for having been found guilty for offence under Section 148 of IPC.

3. As per the case of petitioner, he has already undergone the requisite sentence, as prescribed in the Policy applicable to him i.e. Policy dated 12.4.2002 (Annexure P-3) i.e. more than 10 years of actual sentence and more than 14 years of sentence including remissions.
4. Learned counsel for the petitioner submits that although he had moved a representation dated 14.3.2022 (Annexure P-1) but the same is still undecided. It has been submitted by learned counsel for the petitioner that in the reply filed by the State, it has been informed that the case of the petitioner for his premature release was previously considered and decided vide order dated 11.1.2021 (Annexure R-2).
5. Learned counsel for the petitioner submits that the authorities concerned, while passing the aforesaid order dated 11.1.2021 have proceeded on the premises that the case of the petitioner would be covered under para 2(a)(x) of the Policy, whereas the instant case cannot be said to be such where murder had been committed with brutality. It has been submitted that in the present case the petitioner and two other co-accused are alleged to be carrying pistols while other were carrying knives and that as per PMR, there are only 5 gun shot injuries including 2 exit wounds. Learned counsel has submitted that the present case is not a case of brutal murder and, as a matter of

fact, was required to be decided in terms of Section 2(b) of the Policy which provides that a person is entitled to be released upon completion of 10 years of actual sentence and 14 years of total sentence including remissions.

6. On the other hand learned State counsel has submitted that it is a case where as many as 16 injuries were found on the person of the deceased and that apart from firearm injuries there were 11 incised wounds and which would clearly show that the deceased had been caused injuries indiscriminately and in a ruthless manner which would fully qualify to be called as a case of brutal murder. Learned State counsel has further submitted that as a matter of fact the petitioner's case would fall within the ambit of paras 2(a)(xi) and 2(a)(xii) in addition to 2(a)(x) of Policy dated 12.4.2002 (Annexure P-3) inasmuch as he is a seasoned criminal and not only he has committed offences outside the prison, but has also been convicted in respect of offences committed inside the prison.
7. This Court has considered the rival submissions.
8. It is noticed that the impugned order was passed in January 2021. A period of more than 2 years has elapsed ever since. As such, some circumstances would have changed. The latest conduct of the petitioner would also required to be considered. The question as regards the case being a case of brutal murder is also more or less debatable. As such, the petition is disposed of with a direction to the authorities concerned to consider the matter afresh in view of the latest position and the conduct of the petitioner. The authorities

concerned while considering the case of the petitioner shall consider applicability of para 2(a)(x), 2(a)(xi), 2(a)(xii) or 2(b) of the Policy. The matter be disposed of expeditiously and shall be taken up in next State Level Committee, immediately after the same is processed.

16.02.2023
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No