

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(251)

CRWP-3824-2022
DATE OF DECISION:-23.02.2023

Lakhan

...Petitioner

vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Akshay Rana, Advocate, for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

HARKESH MANUJA, J.

By way of present petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to consider and release the petitioner in view of the Policy dated 08.07.1991(Annexure P-1) relating to grant of pre-mature release.

On 13.01.2023, this Court passed the following order:

“By way of present petition under Article 226 of the Constitution of India, prayer has been made at the instance of the petitioner for issuance of directions to the respondents to consider and decide his case for grant of pre-mature release.

The facts of the case are that the petitioner was arrested in case FIR No.212, dated 30.05.2003, under Sections 302, 460, 411, 148 read with Section 149 IPC, registered at Police Station Samana, District Patiala and was thereafter, convicted by the court of learned Additional Sessions Judge, Patiala vide judgment dated 12.01.2009, so as to undergo imprisonment for life. An appeal bearing CRA-194-DB-2009 filed at the instance of the petitioner came to be dismissed by this Court vide judgment dated 21.04.2010, even, SLP No.7858 of 2011 filed against the

same also met with the same fate, vide decision dated 18.04.2011 passed by the Hon'ble Supreme Court. Relying upon instructions dated 08.07.1991 issued by Government of Punjab, relating to premature release of the life convicts, the petitioner approached the respondent authorities by way of legal notice/representation dated 22.10.2020 (Annexure P-3), contending therein that the offence involving the petitioner was not a heinous crime and as such, his case for grant of pre-mature release after having undergone 10 years of actual sentence & 14 years with remission be considered.

Learned counsel for the petitioner submits that the respondent-State has failed to take any decision upon the representation/legal notice served at the instance of the petitioner, even after the expiry of more than two years now. Notice in the present case was issued by this Court vide order dated 27.04.2022, however, till date, no reply has been filed at the instance of the respondent-State.

In view of the above, respondent No.1 is requested to take a final decision on the representation/legal notice dated 22.10.2020 (Annexure P-3 page 21) submitted by the petitioner, taking into consideration the policy dated 08.07.1991, within a period of four weeks from the date of receipt of this order and copy of the said order passed on the representation/legal notice of the petitioner, be placed before this Court.

Adjourned to 23.02.2023.

Considering the fact that the dispute in the present case involves the rights to life and liberty of the petitioner, to which, the respondents have turned blind eye, as there has been deafening silence on their part, in case, no order is passed by competent authority, respondent No.1 is requested to come present in the Court on the next date of hearing so as to explain the inordinate delay."

Today, learned State counsel on instructions from Venus Bansal, Senior Assistant, Punjab Civil Secretariat, Jail Department, submits that a meeting of the Committee constituted in compliance of the order of Government of Punjab vide Endst. No.12/133/2019-3H7/57-66 dated 02.02.2021, so as to examine pre-mature release cases of life convicts was

held on 06.01.2022 and the matter is under consideration, he further informs that the final decision is expected to be taken within a period of two months from today.

Considering the fact that the matter in hand of pre-mature release relates to the liberty of an individual and the fact that the meeting took place way back on 06.01.2022 and even after the expiry of period of more than 1 year now, no final decision has been taken by the respondents, so far and also relying upon the direction issued by this Court vide order dated 30.01.2023 passed in COCP-2020-2022 titled as Pawan Kumar Vs. D. K. Tiwari and another, the petitioner is ordered to be released on interim bail till a final decision is taken by the respondents upon his application, the same shall however be subject to final outcome of consideration upon the application made by the petitioner for his pre-mature release case.

In view of the discussion made hereinabove, petitioner is ordered to be released on bail on his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/Magistrate subject to him not being required in any other case. Petitioner shall also abide by any other conditions as imposed by the trial Court.

In view of the aforesaid direction, present petition stands disposed of.

23.02.2023
anil

(HARKESH MANUJA)
JUDGE

whether speaking/reasoned: Yes/No
whether reportable: Yes/No