

285 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-4085-2023

DATE OF DECISION:-25.05.2023

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. Luvinder Sofat, DAG, Punjab assisted by
Mr. Narinder Singh, Senior Assistant, O/o ADGP(Prisons).

HARKESH MANUJA, J. (Oral)

1. By way of present petition filed under Article 226 of the Constitution of India, prayer has been made for issuance of a writ in the nature of certiorari for quashing of order dated 29.03.2023, whereby, the prayer made on behalf of the petitioner for his premature release, stands rejected.

2. Briefly stating, the petitioner was tried 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, followed by his conviction and sentenced for life imprisonment vide judgment/order dated 12.01.2009 passed by the court of learned Additional Sessions Judge, Patiala. Aggrieved thereof, petitioner preferred CRA-194-DB-2009, which was dismissed by this Court vide judgment 21.04.2010 and later even affirmed by the Hon'ble Apex Court vide SLP No.7858-2011 decided on 18.04.2011.

3. Relying upon instructions dated 08.07.1991, the petitioner having undergone actual sentence of 10 years, applied for his premature release, which was declined vide order dated 29.03.2023 passed by the respondent-State. Relevant paras 4 and 5 thereof are reproduced hereunder for reference:-

4. *The life convict Lakhan son of Karan Singh has undoubtedly completed his requisite sentence for premature release as per policy dated 08.07.1991 but the convict used to commit robberies at people's house during night and during committing robbery he has committed murder. The offences committed by the convict are serious ones in the eyes of the society and in case such type of criminal is released prematurely then it will have an adverse impact upon society.*

5. *The premature release case of the life convict Lakhan son of Karan Singh, New District Jail, Nabha involved in FIR No.212, dated 30.05.2003 was presented before the Hon'ble Governor, Punjab under Article 161 of the Constitution of India after stating complete details of the above facts. The competent authority Hon'ble Governor, Punjab received file alongwith complete record and reports of District Magistrate, Gunna and Police authority reports/Addl. Director General of Police (Prisons) non-recommendation reports regarding premature release and objections raised by the state level committee constituted by the government and after considering all facts of the case the premature release case of Rakka son of Sajjan Singh, New District Jail, Nabha is hereby rejected under Article 161 of the Constitution of India."*

4. On 29.04.2023, while issuing notice of motion, reliance was placed upon a decision dated 21.02.2022 passed by this Court in **CRWP-394-2021**, titled as "**Bhim Singh vs. State of Punjab and others**".

5. In response, reply by way of affidavit dated 16.05.2023 of

Mr. Roop Kumar Arora, Inspector General of Prisons, Punjab, Chandigarh, O/o Additional Director General of Police (Prisons), Punjab Chandigarh filed in the Registry which is taken on record.

6. Both the parties are *ad idem* that in view of the decision dated 21.02.2022 passed by this Court in **CRWP-394-2021**, titled as "**Bhim Singh vs. State of Punjab and others**", the impugned order dated 29.03.2023 be set aside and the matter be remanded back for its fresh adjudication by the competent authority.

7. Learned State counsel also submits that a fresh decision would be taken within a period of 8 weeks from today and further assures that in case, the petitioner moves an application before the District Magistrate for release on parole, within a period of one week from today, the same would be sanctioned/allowed, subject to usual conditions.

8. I have heard learned counsel for the parties and have gone through the record.

9. In view of the discussion made herein above as well as the stand taken by both the sides, the present petition is allowed. Consequently, the impugned order dated 29.03.2023 is set aside and the matter is remanded back for its fresh adjudication by the competent authority in terms of decision dated 21.02.2022 passed by this Court in **CRWP-394-2021**, titled as "**Bhim Singh vs. State of Punjab and others**" upon comprehensive consideration of the past antecedents/conduct as well as behavior of the petitioner in the jail, besides the verification reports submitted by different authorities, as prescribed under the relevant policy/instructions dated 08.07.1991.

10. Further, in case, the petitioner moves an application before the

District Magistrate for his release on parole, within a period of one week from today, the same shall be allowed as assured by the learned State counsel, no doubt, subject to certain usual conditions as per the relevant rules.

25.05.2023
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(HARKESH MANUJA)
JUDGE

whether speaking/reasoned:

Yes/No

whether reportable:

Yes/No