

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRWP-7337-2021

Date of Decision: 18.05.2023

Kulbir Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE B.S.WALIA
HON'BLE MR. JUSTICE LALIT BATRA

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

Mr. Gurpreet Singh Sandhu, Deputy Advocate General, Punjab.

B.S.Walia, J. (Oral)

Instant petition under Article 226 of the Constitution of India is for issuance of appropriate order or direction holding that petitioner has completed the requisite period of sentence for the purpose of premature release and that he has become entitled to consideration of his case under Para 431 of the New Punjab Jail Manual 1996 in view of the decision of the Hon'ble Supreme Court of India in "**Phoolwati and others Versus State of Haryana**" Annexure P/7 dated 17.05.2013 and "**State of Haryana Versus Jagdish**" 2010 (4) SCC 2016.

2. At the outset, learned counsel for the petitioner assisted by Mr. Akshay Rana, Advocate, contends that the petitioner has served a representation Annexure P/6 dated 31.03.2019 but despite lapse of a period

of four years, the same has not been decided till date and that in the circumstances, the petitioner would be satisfied if the instant petition is disposed of by directing the respondents to take a decision on the representation Annexure P/6 dated 31.03.2019.

3. Learned Deputy Advocate General, Punjab, on the other hand by referring to the decision Annexure P/3 dated 18.10.2006 in Criminal Appeal No.598 of 2005 in ***State of Punjab Versus Kulbir Singh and another*** i.e. appeal in the case of the petitioner herein, contends that Hon'ble the Supreme Court while affirming the sentence of imprisonment for life passed against the petitioner/accused had directed that the petitioner/accused would not be entitled to any commutation or premature release under Section 433A of the Code of Criminal Procedure, Prisoners Act, Jail Manual or any other statute and the Rules made for the purpose of commutation and remissions. Relevant extract of the aforesaid decision of Hon'ble the Supreme Court is reproduced as under:-

“Following the aforesaid precedents and having regard to the facts and circumstances of the case and also the fact that the offence was committed eight years ago, we affirm the sentence of imprisonment for life passed against the accused respondents but direct that the aforesaid respondents accused will not be entitled to any commutation or premature release under Section 433A of the Code of Criminal Procedure, Prisoners Act, Jail Manual or any other statute and the Rules made for the purpose of commutation and remissions. Subject to the aforesaid directions, Criminal Appeal No. 598 of 2005 and Criminal

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Appeal No.75-78 of 2006 are dismissed. In the result, all the appeals before us are dismissed subject to the aforesaid directions.”

4. Learned Deputy Advocate General, Punjab, contends that in the circumstances, it is not open to the State to take a decision contrary to the orders of Hon’ble the Supreme Court and at best the remedy, if any, available to the petitioner is to invoke the jurisdiction of the Hon’ble Supreme Court by way of appropriate proceedings in accordance with law to seek modifications of order Annexure P/3 dated 18.10.2006 in the aforementioned criminal appeal.

5. Faced with the aforementioned position, learned counsel for the petitioner states that in the circumstances, he does not press the instant petition but prays for grant of liberty to the petitioner to take out appropriate proceedings before Hon’ble the Supreme Court in accordance with law for redressal of his grievance.

6. In view of the position noted above, as well as statement of learned counsel for the parties, the instant petition is disposed of as not pressed while granting liberty as prayed for.

(B.S.WALIA)
JUDGE

18.05.2023
Varinder Prashad

(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No