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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-6205-2023

Date of Decision: 06.09.2023

SUBHASH

... Petitioner

Versus

STATE OF HARYANA & OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Kartar Singh, Advocate
for the petitioner.

Mr. Neeraj Poswal, Asst. A.G., Haryana.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Article 226 of the Constitution of India is for quashing of the order dated 31.03.2023 (Annexure P-3) passed by respondent No.1 vide which the case of the petitioner for grant of premature release has been deferred by respondent No.1 for 2 years starting from 23.12.2022.

2. The brief facts of the case are that the petitioner was undergoing a life sentence in FIR No.434 dated 31.03.2003 under Sections, 460, 411 IPC. Pursuant to his conviction dated 12.06.2006 Criminal Appeal No.CRA-D-612-DB-2006 was filed before this Court and the same was dismissed on 09.11.2011.

3. In terms of the policy dated 12.04.2002, the petitioner had deposited all his documents for considering him for premature release in terms of the said policy. The State Level Committee recommended that the premature release of the petitioner be deferred and re-considered after 20

years of actual sentence and 25 years of total sentence on 12.08.2021. The petitioner thereafter filed a CRWP-9340-2022 against the order of respondent No.1 and this Court vide order dated 12.12.2022 (Annexure P-2) gave an opportunity to the petitioner to move a fresh representation within a period of 40 days for consideration before the appropriate authority who would pass a reasoned and speaking order on the same.

4. In terms of the aforementioned order, the petitioner applied for premature release and respondent No.1 deferred the case of the petitioner for 02 years starting from 23.12.2022 vide impugned order dated 31.03.2023 (Annexure P-3).

5. The learned counsel for the petitioner contends that the case of the petitioner was covered by the policy of premature release dated 12.04.2002 (Annexure P-1) and the petitioner had completed the requisite period of 20 years of total sentence upto 23.12.2022. So, he was fully eligible for premature release.

6. A reply dated 02.08.2023 by way of an affidavit of Jagjit Singh, Inspector General of Prisons, O/o the Director General of Prisons, Haryana has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that the petitioner had multiple cases registered against him as detailed in para 2 of the reply. While in custody, on 05.03.2009, Sulfa was recovered from his possession for which he was awarded with punishment of 15 days separate confinement by the Superintendent Jail. The petitioner could not claim premature release as a matter of right unless the State Government commutes the sentence of a life convict through a written order under the appropriate

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law. The State Government has framed premature release policies from time to time for consideration of cases of life convicts for their premature release. However, the same was only a concession given by the State Government after considering the behaviour of the convict inside the jail, gravity, nature of offence etc. He contends that the petitioner was a habitual offender and his case was not covered under the guidelines issued by the Hon'ble Supreme Court of India in case of "*Life Convict Laxman Naskar Versus State of West Bengal & another, decided on 1st September, 2000*". In compliance of the order of this Court dated 12.12.2022, the case of the petitioner had been placed before the State Level Committee for the grant of premature release but after considering all the facts and circumstances of the case, the State Level Committee had recommended to defer his case for 02 years from 23.12.2022. As the Committee wanted to further watch the conduct of the petitioner, the impugned order had been passed which could not be said to be arbitrary or illegal. Reliance is placed on the judgments in *Maru Ram Versus Union of India, AIR 1980 SC 2147*, *Swami Shardhanand @ Murli Manohar Mishra Versus State of Karnataka (SC) 2008(3) R.C.R. (Criminal) 772: 2008(4) R.A.J 480*, *State of Haryana and others Versus Jagdish, AIR 2010 SC 1690*, *Naib Singh Versus State of Punjab, 1983(2) SCC 454*, *Gopal Vinayak Godse Versus State of Maharashtra & others, 1961(3) SCR 440*, *Rohan Dhungat etc. Versus State of Goa & others, 2023 SCC OnLine SC 16, 2023 LiveLaw (SC) 10* and *Crl. Misc. No.12925-M of 1991 Om Parkash Versus State of Haryana and another, 1992(1) R.C.R. (Criminal) 580: 1992(1) AICLR 505*.

7. I have heard the learned counsel for the parties.

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8. A perusal of the reply of the State along with the relevant law cited therein would show that the State Government has framed premature release policies from time to time for consideration of cases of life convict for the premature release. However, it is only a concession given by the State Government looking into various factors such as the conduct of the convict in jail, gravity and nature of the offence etc. A convict has no inherent right to claim premature release as life imprisonment means the whole life of the convict in jail. Therefore, there is no indefeasible right of such prisoner to be unconditionally released on the expiry of any particular term including remissions. However, the appropriate Government must pass a separate order remitting the unexpired portion of the sentence if so warranted. In the instant case, apparently, the State Level Committee wanted to further watch the conduct of the petitioner on account of his criminal antecedents and for the said reason, the case of the petitioner was to be considered after 02 years from 23.12.2022.

9. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

06.09.2023

JITESH

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