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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRWP-8225-2022 (O&M)
Date of decision: 22.09.2023

Daljodh Singh and another ...Petitioners
Vs.
State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr.Arun Singla, Advocate,
For the petitioners.

Mr. Mohit Thakur, AAG, Punjab.

ARUN MONGA, J. (ORAL)

Petitioners herein are life convicts. They, *inter alia*, seek issuance of directions to the respondents to consider their representation dated 02.03.2022 (Annexure P-5) and to consider their case for premature release, as they have undergone more sentence than required for consideration of premature release case.

2. Learned counsel for the petitioner submits that petitioners were arrested in case FIR No.139 dated 08.10.2006, registered under Sections 302, 201, 120-B, 212, 202 of IPC at Police Station, Mukerian, District Hoshiarpur. Petitioners were convicted and sentenced to undergo life imprisonment vide order dated 13.03.2013 passed by learned Additional Sessions Judge, Hoshiarpur. Petitioners filed a criminal appeal bearing CRA-D-311-DB-2013 against order of conviction, which was dismissed by this Court vide order dated 11.10.2017. Against dismissal of their appeals from this Court, petitioners filed SLP (crl) No.2348-2018 which was also dismissed vide order dated 12.03.2018.

3. He further submits that petitioners have already undergone more than 13 years actual sentence of imprisonment and with remission more than 15 years sentence. The conduct of the petitioners remained good during incarceration as well as outside the jail.

4. He further urges that case of the petitioners is squarely covered with the policy instructions dated 08.07.1991 (Annexure P-4) issued by State of

Punjab since the same was applicable on the date of judgment of conviction and order of sentence dated 13.03.2013. It is settled proposition of law that the policy instructions concerning premature release are to be applied which was prevailing the time of judgment of conviction as has been held by the Supreme Court of India in the case of '*State of Haryana and others vs. Jagdish*'¹.

5. He further urges that petitioners sent a legal notice dated 02.03.2022 (Annexure P-5). Learned counsel for the petitioners received letter dated 24.03.2022 (Annexure P-6) from Government of Punjab, Department of Jails addressed to Additional Director General of Police (Jails), Punjab Chandigarh to take appropriate decision on the request of the petitioners for their premature release in accordance with rules/policies. However till date no decision has been taken in this regard. Hence, the instant petition.

6. On the other hand, learned State counsel, assisted by ASI Ramesh Kumar, strenuously opposes the present petition. He relies on paras 6 and 7 of the reply dated 22.10.2022, which read as under:

"6. That it is respectfully submitted that as per Punjab Govt. Remission Circulars issued from time to time, no remission shall be granted to the person who has committed the offence u/s 302 of Indian Penal Code 1860 and the victim is a child under the age of 14 years.

7. That as per Jail record the petitioner no. 1 Balvir Singh has completed the actual sentence of 13 years 05 months and 02 days (after deducting the period of parole) and has earned the remission of 01 year 09 months and 5 days as mentioned in the detailed custody certificate is annexed herewith as Annexure R-1. In view of the custody certificate, the total custody of the petitioner comes to be 15 Years 02 Months and 07 Days and as such, the petitioner has not yet become eligible for their premature release case.

That the Petitioner no. 2 Daljodh Singh has completed the actual sentence of 13 years 04 months and 28 days (after deducting the period of parole) and has earned the remission of 01 year 10 months and 00 days as mentioned in the detailed custody certificate is annexed herewith as Annexure R-2. In view of the custody certificate, the total custody of the petitioner comes to be 15 Years 02 Months and 28 Days and as such, the petitioner has not yet become eligible for their premature release case.

In view of the custody certificate Annexure no.1 & 2, the petitioners have not yet become eligible for initiation/consideration of their premature release case.

The premature release case of the petitioners will be initiated after completion of 12 years actual sentence and 18 years actual sentence or with remission. Petitioners have not undergone the required period of sentence as required under above said policy dated 08.08.2011 awarded to them. So, in the

meantime Premature Release Cases can't be initiated in light of the provisions of the Premature Release Policy dated 08/08/2011 issued by the Government of Punjab.”

- 7. Arguments heard.
- 8. Without commenting on the merits of the case, the instant petition is disposed of with a direction to the competent authority to look into the pending legal notice dated 02.03.2022 (Annexure P-5) and decide the same, either way, in accordance with law, as expeditiously as possible.
- 9. Disposed of accordingly.
- 10. Pending application, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

12.09.2023
Vandana

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