

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
105 **CRWP-8638-2023 (O&M)**
Date of decision: 04.09.2023

Wazir

...Petitioner(s)

Vs.

State of Haryana & Others

...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Anoop Singh Sheoran, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present petition under Articles 226 and 227 of the Constitution of India is filed for issuance of writ of certiorari for setting aside impugned order dated 07.08.2023 (Annexure P4) vide which the case of the petitioner for premature release has been illegally ordered to be deferred for two years, despite the fact that the petitioner's case is squarely covered under the Premature Policy (Annexure P2) as well as Notification dated 13.08.2008 (Annexure P5) of Government of Haryana.

2. Learned counsel for the petitioner inter alia submits that FIR No.108 dated 22.05.2007 under Sections 302, 306, 498-A and 34 IPC was registered at Police Station Sadar Hansi, District Hisar against the petitioner and others. Vide judgment/order dated 13.02.2010/15.02.2010 passed by learned Additional Sessions Judge, Hisar, co-accused and the petitioner were acquitted of all charges under Section 498-A IPC but the petitioner was convicted under Section 302 IPC and sentenced to undergo life imprisonment along with fine of Rs.5,000/- in the above said case.

Learned counsel states that thereafter, the petitioner has undergone actual sentence of more than 15 years and 6 months and total sentence of more than 20 years including remission. Learned counsel contends that the impugned order whereby the petitioner's application for premature release has been dismissed is prima facie illegal and unsustainable as the same is against the Policy framed by the State of Haryana regarding premature release of convicts including those who have been sentenced to undergo life imprisonment.

3. Learned counsel further submits that even as per Notification dated 13.08.2008 (Annexure P5), issued by Government of Haryana, as per clause (b) of the said notification, cases of convicts for premature release who have been imprisoned for life for having committed a crime which is defined in IPC and/or NDPS Act as punishable with death sentence, may be considered after the completion of 14 years of actual sentence including under trial period, provided that the total period of such sentence including remissions is not less than 20 years. Learned counsel states that accordingly, the petitioner is squarely covered under the said notification. It is further submitted that the petitioner has neither committed any violation nor any jail offence during his long period of incarceration.

4. Notice of motion.

5. Mr. Arjun Lakhanpal, Additional AG Haryana who is present on advance notice, submits that the custody certificate is not available today.

6. I have heard learned counsel for the petitioner.
7. Perusal of record of the case reveals that the petitioner was convicted for murdering his wife Sushila by pouring kerosene oil on her and setting her ablaze on 22.05.2007. Thereafter, the wife of the petitioner had died on 31.05.2007 as she had sustained 90% burn injuries. Even the appeal bearing No.CRA-D-723-DB-2010 filed by the petitioner against the above said conviction, has been dismissed by this Court vide judgment dated 12.12.2016.
8. Furthermore, vide the impugned order dated 07.08.2023, the application of the petitioner seeking premature release has only been deferred for two years and will be reconsidered after two years from 31.12.2022, for the following reasons:-

“3. The State Level Committee in its meeting held on 30.06.2023 has considered his case under Clause (b) of the Premature Release Policy dated 13.08.2008. After considering the entire facts of the case with due diligence, details deliberations were held. The State Level Committee has observed that this life committed heinous crime. Hence, he does not deserve any concession of Government at this state. After thorough discussion, the State Level Committee recommends that the case for premature release of this life convict be deferred for two years, and his case will be re-considered after two years from 31.12.2022.”

9. I find the above said reasoning of the State Level Committee to be perfectly just and fair in the facts and circumstances of the present case.

10. Moreover, it is relevant to note that as the petitioner has been convicted for a heinous crime, he falls under the category of “Hardcore Prisoner” as defined in Section 2(aa) of the Haryana Good Conduct Prisoner (Temporary Release) Amendment Act, 2013, and is, therefore too, not entitled for premature release, and deserves to undergo imprisonment for the entire period of his natural life.

11. Accordingly, I find no ground is made out to interfere in the impugned order.

12. **Dismissed.**

13. Pending application(s) if any also stand(s) disposed of.

04.09.2023
Sunena

(Nidhi Gupta)
Judge

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