

31.07.2024
Sl. No.4(DL)
srm

W.P.A. No. 1432 of 2024
Sankar Sundar Dutta @ Tuti
Versus
The State of West Bengal & Ors.

Mr. Soubhik Mitter,
Ms. Rajnandini Das

...for the Petitioner.

Mr. Samrat Sen,
Mr. Saikat Chatterjee,
Ms. Manali Ali

...for the State-respondents.

1. The petitioner was convicted for life along with others, for commission of offence under Sections 302 and 34 of the Indian Penal Code. The judgment was passed in GA No.3 of 2002 dated August 10, 2006, by a Division Bench of this Court.
2. The learned Advocate appearing for the petitioner contends that the petitioner has been serving his sentence for 21 years and 7 months. The petitioner prayed for remission of sentence. The petitioner's case was rejected by the State Sentence Review Board on January 28, 2024 without assigning any reasons. Hence, the writ petition has been filed.
3. The ADG & IG, Correction Services, West Bengal communicated such order of rejection to the petitioner. The petitioner contends that his prayer for permanent release on remission of sentence should have been allowed as he was in

the same footing as the other convicts who were released prematurely.

4. Learned Advocate for the State-respondents has handed over a document which depicts the consideration made by the State Sentence Review Board. It appears that the Board was of the opinion that that antecedent of the petitioner was not good. There was a chance that the offence could be committed again. The police authorities also raised an objection. According to the Board, the prayer for release was premature.
5. Mr. Mitter, learned Advocate appearing for the petitioner submits that the Hon'ble Apex Court had time and again upheld the right of a convict to ensure that his application for premature release, upon remission of sentence is considered on the basis of attending circumstances.
6. Heard the parties. The principle of fairness should be imbedded in the decision of the authority. A simpliciter rejection order, on the ground that the antecedent of the petitioner was not good, cannot be a valid reason to deny the right of a convict, provided in the Jail Code. The policy of premature release by serving a short sentence, had been adopted by law to uphold the liberty, dignity and right of life of an individual. Such right cannot be denied to any convict without sufficient reasons.

7. Moreover, overcrowding in prisons would also be a relevant consideration. The other documents annexed to the writ petition, according to Mr. Mitter, would indicate that the jail authorities had certified that the petitioner's behaviour was good. It also appears that the petitioner is 59 years old. The simple reason given by the Board is that the antecedent of the petitioner was not good. In my, *prima facie*, view the same may not be sufficient ground to reject the petitioner's prayer for early release.
8. Mr. Saikat Chatterjee, learned Advocate appearing for the State-respondents submits that the conduct of the convict as it transpired from the factual aspects which were before the Board, did not persuade the Board to release the petitioner and the Board suspected that the petitioner's association and past conduct were against such prayer for release. Mr. Chatterjee has tried to build up an argument that the petitioner was a part of an organised crime and was guilty of premeditated murder.
9. These aspects which have been cited by Mr. Chatterjee are not a part of the decision making process of the Board.
10. Under such circumstances, the writ petition is disposed of with liberty to the petitioner to make a further application for his premature release and the same shall be decided by the

competent authority upon taking into consideration the following aspects:

- (a) The antecedent of the petitioner, by making specific enquiry through the appropriate agency.
 - (b) Whether the petitioner was found guilty of a graver offence than the other co-convicts who were all accused of the same offence and had been released earlier.
 - (c) The conduct of the petitioner in the correctional home, the health and age of the petitioner and the period already served. The authorities must take into consideration the decision of the Hon'ble Apex Court in the matter of Beche Lal vs. State of Uttar Pradesh & Anr. reported in (2021) 17 SCC 726 : 2021 SCC OnLine SC 499.
11. The said consideration will be made within three months from the receipt of the petitioner's application.
 12. The instruction filed by the State-respondents is taken on record.
 13. There shall be no order as to costs.
 14. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)