



CRWP-2776-2024

-1-

281

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP-2776-2024

Date of Decision: November 21, 2024

Bikkar Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

**Present: Mr.Rajpreet S.Brar, Advocate with
Mr.Ashadveer Singh, Advocate and
Mr.K.S.Dargan, Advocate
for the petitioner.**

Mr.J.S.Brar, DAG, Punjab.

.....

RAJESH BHARDWAJ, J.(ORAL)

1. Present petition has been filed praying for setting aside the impugned order, dated 13.12.2024, Annexure P-2, passed by respondent No.1, rejecting the premature release case of the petitioner. It is further prayed to issue directions to the respondents to reconsider the case of the petitioner for his premature release as he has undergone the requisite sentence required for consideration of his premature release.

2. It has been contended by learned counsel for the petitioner that petitioner was prosecuted in case FIR No.12, dated 17.03.2007, under Section 302 IPC, registered at Police Station Balianwali, District Bathinda. After conclusion of the trial, he was convicted for the offence under Section 302 IPC and sentenced him to undergo life imprisonment and to pay fine of

**CRWP-2776-2024****-2-**

Rs.5,000/- ,by learned Sessions Judge, Bathinda, on 24.02.2009. The petitioner filed appeal bearing CRA-D-382-DB-2009 before this Court, which was already dismissed on 17.10.2014. He has submitted that the petitioner had filed an application for grant of premature release as per instructions issued by the Punjab Government, dated 08.07.1991 while exercising the power conferred under Sections 432, 433 and 433(A) of Cr.P.C. read with Article 161 of the Constitution of India. He has submitted that as per instructions, case of a life convict, who has not committed the heinous crime, would be considered for grant of pre mature release after undergoing ten years of actual sentence and with remission 14 years of sentence. As the petitioner was eligible for his premature release in view of the Policy, dated 08.07.1991, his case was recommended for consideration of his premature release by the State. During pendency of his case, he was released on interim bail on 04.07.2023 as per the instructions issued by this Court in COCP-2020-2022. However, on consideration of his case, the respondent/State had rejected his case of premature release vide impugned order, dated 13.12.2023 on the ground that petitioner had killed his grand-father due to land dispute which would show that the petitioner had no sensitivity and respect for his grand-father and thus, offence committed by the petitioner was heinous in nature. He submits that the view taken by the respondent/State in rejecting his prayer for premature release is totally illegal, unreasonable and hence unsustainable in the eyes of law. He submits that as per the terms and conditions of the Policy, dated 08.07.1991, case of the petitioner does not fall under the definition of heinous crime. He, thus,



the petitioner had committed the heinous offence is in violation of the Policy, dated 08.07.1991, thus, he submits that the impugned order being unsustainable in the eyes of law deserves to be set aside and respondent/State be directed to re-consider the case of the petitioner in accordance with law. He relies upon State of Haryana vs Mahender Singh, 2007(4) RCR 909 and State of Haryana vs Jagdish 2010(2) RCR 464 (SC).

3. Per contra, learned State counsel has opposed the submissions made by learned counsel for the petitioner. He has drawn attention of this Court to the reply, dated 21.10.2024, filed by way of affidavit of Manjit Singh Sidhu, PPS, Superintendent, Central Jail, Bathinda, on behalf of respondents No.1, 2 and 3. He has submitted that case of the petitioner for his premature release was forwarded in view of Policy, dated 08.07.1991, however, on consideration, the same was rejected on the ground that the petitioner had killed his grand-father and thus not having any sensitivity towards his aged grand father and the crime committed by him was heinous. He submits that in the Policy, dated 08.07.1991, there is a specific provision where the Government reserves the right to exercise its power under Article 161 of the Constitution of India in any way it deems fit. He submits that as per the custody certificate, the petitioner has undergone an actual custody period of 11 years, 05 months and 07 days as on 21.10.2024 and the total sentence including the remission is 19 years, 05 months and 07 days. He submits that the Government has exercised its right in a judicious manner and thus, finding the offence committed by the petitioner to be heinous, his



devoid of any merit deserves to be dismissed.

4. I have heard the learned counsel for the parties and with their able assistance have gone through the record as well. Precise issue involved in the present case is whether the petitioner deserve to be considered for his premature release as per Policy, dated 08.07.1991 and the law settled. The petitioner, as observed earlier, had been sentenced for life by the trial Court vide order, dated 24.02.2009. Appeal filed by him assailing his sentence was dismissed by this Court vide order dated 17.10.2014. The petitioner had filed his petition for his premature release, which had been declined by the respondents/State by way of passing the impugned order, dated 13.12.2023. Case of the petitioner for consideration of his premature release is to be considered as per the Policy of the State, dated 08.07.1991. A perusal of the Policy would show the Heinous crime, relevant part of which reads as follows :-

“A		B		C		D		E	
For convicts whose death sentence has been commuted to life imprisonment		Convicts who have been imprisoned for life for offence for which death is a punishment and have committed heinous crime		Convicts who have been imprisoned for life for offence for which death is a penalty but crimes are not considered heinous		Other life convicts imprisoned for life for offence for which the death penalty is not punishment and have committed heinous crimes		Other lifer convicts	
Actual imprisonment	Imprisonment with remission	Actual imprisonment	Imprisonment with remission	Actual imprisonment	Imprisonment with remission	Actual imprisonment	Imprisonment with remission	Actual imprisonment	Imprisonment with remission
14	20	12	18	10	14	10	14	8 ½	14
10	14	8	12	8	12	8	12	6	10

A Heinous crime with reference to column ‘B’ of 1(I) above are defined as follows:-

(i) Offence under section 302 alongwith 347 of the IPC i.e. murder with wrongful confinement for extortion.



- (ii) Section 302 with 375, i.e. murder rape.
- (iii) Offence under section of IPC i.e. dacoit with murder.
- (iv) Offence under section 302 alongwith offences under the Terrorist and Disruptive Activities (Prevention) Act 1987.
- (v) Offence under Section 302 alongwith offence under the untouchability (offence) act 1955.
- (vi) Offence under section 302 where murder has been committed in connection with any dispute over dowry and this is indicted in the judgment of the trial court.
- (vii) Offence under section 302 where the victim is a child under the age of 14 years
- (viii) Any conviction under section 120-B of the IPC Heinous crime with reference to column 'D' of the revised policy are defined as follows:-

- (i) Offence under section 304(B) of the IPC, i.e. a dowry death.
- (ii) Offence under section 304 alongwith section 347 of the IPC, i.e. culpable homicide with wrongful confinement for extortion.
- (iii) Offence under section 304 with section 375, i.e. culpable homicide with rape.
- (iv) Offence under section 304 alongwith offence under the terrorist and disruptive homicide Activities (Prevention act 1987).
- (v) Offence under section 304 alongwith culpable homicide has been committed in connection with any dispute on dowry and this is indicted in the judgment of the trial court.
- (vi) Offence under section 304 where the victim is a child under the age of 14 years.
- (vii) Any conviction under section 120-B of the IPC i.e. for criminal conspiracy in connection with the above crime.
- (viii) Adults are defined as persons above the age of 18 years.”

5. A perusal of this Policy would show that heinous crimes have been defined in the Policy itself. Case of the petitioner, as contended, is to be considered as per Column `C` of the table given in the Policy for which

the requisite period for consideration of the premature release is ten years of



actual sentence and 14 years imprisonment with remissions. Admittedly, the petitioner, as per the custody certificate produced by the State, has completed actual sentence of 11 years, 05 months and 07 days as on 21.10.2024. The observations made in the impugned order while rejecting case of the petitioner is to the effect that the offence committed by the petitioner is heinous in nature. However, the same is not substantiated from the Policy under which the case of the petitioner was considered. Since Clause 'B' of the Policy specifically defines about heinous crimes, therefore, it can be inferred that crimes falling in Clause 'C' of the Policy are not to be treated in the category of heinous crimes. It will be absolutely arbitrary and discriminatory to treat the convicts those who are punished for committing murder of their near relatives separately from the convicts who are not accused of committing murder of the non-relatives as both the convicts fall in same category, i.e. Clause 'C' of the Policy. The State is not obliged to evolve its own definition of heinous offence as the same has already been done by policy makers as mentioned in the Column 'B' of the Policy. State is always expected to consider case of convict for pre-mature release while strictly following the provisions of the policy. Hon'ble Apex Court in **Raj Kumar vs State of Uttar Pradesh** 2024(9) SCC 598 has held as under:-

“13. The State having formulated Rules and a Standing Policy for deciding cases of premature release, it is bound by its own formulations of law. Since there are legal provisions which hold the field, it is not open to the State to adopt an arbitrary yardstick for picking up cases for premature release. It must strictly abide by the terms of its policies bearing in mind the fundamental principle of law that each case for



premature release has to be decided on the basis of the legal position as it stands on the date of the conviction subject to a more beneficial regime being provided in terms of a subsequent policy determination. The provisions of the law must be applied equally to all persons. Moreover, those provisions have to be applied efficiently and transparently so as to obviate the grievance that the policy is being applied unevenly to similarly circumstanced persons. An arbitrary method adopted by the State is liable to grave abuse and is liable to lead to a situation where persons lacking resources, education and awareness suffer the most.”

6. There is no doubt that there is a provision in the Policy that the State reserves the right to exercise its powers under Article 161 of the Constitution in any way it deems fit. However, the same cannot be exercised in an arbitrarily manner. The status report filed by the State would reveal that there is no other case pending against the petitioner and his conduct inside the jail has remained satisfactory.

7. Thus, the Court finds that the impugned order, dated 13.12.2003, passed by the respondent/State is unsustainable in the eyes of law and the same is set aside. Present petition is disposed of with a direction to respondent/State to reconsider the case of the petitioner on the anvil of the law settled and pass a fresh speaking order, in accordance with law, within a period of three months from the date of receipt of a copy of this order.

November 21, 2024

meenuss

(RAJESH BHARDWAJ)

JUDGE

1. Whether speaking/reasoned ?

Yes/No

2. Whether reportable ?

Yes/No