

277 IN THE HIGH COURT OF PUNJAB AND HARYANA
 AT CHANDIGARH

CRWP-4132-2022
Date of decision: 16.01.2024

SUKHBIR SINGH

...PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rajpreet Brar, Advocate for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

HARPREET SINGH BRAR J. (ORAL)

The prayer in the present petition filed under Article 226 of the Constitution of India is for setting aside/quashing of the impugned order dated 09.04.2022 (Annexure P-3) passed by respondent No.3, rejecting the premature release case of the petitioner.

2. Learned counsel for the petitioner *inter alia* contends that the petitioner was convicted by the learned Sessions Judge vide judgment of conviction and order of sentence dated 06.04.2005 and he was awarded rigorous imprisonment for life in case FIR No.161 dated 29.08.2001 registered under Sections 302/325/326/148/149 of Indian Penal Code and Section 27 of Arms Act registered at Police Station Valtoha, District Tarn Taran. Learned counsel further submits that petitioner has undergone more than 11 years of actual sentence of imprisonment and with 8 years of remission, he has undergone 19 years of sentence. As such, his case is covered under the applicable policy and the impugned order has been passed without examining the factual position.

3. Reply filed by way of affidavit of Surinder Singh, Superintendent, Central Jail, Amritsar on behalf of respondent Nos.1 to 3 is taken on record. Learned State counsel refers to the reply along with custody certificate filed on behalf of respondent Nos.1 to 3. The perusal of the custody certificate dated 07.07.2022 (Annexure R-2) would indicate that the petitioner has undergone the custody of 01 year, 02 months and 07 days as undertrial period and 11 years and 04 days of custody after conviction as on 07.07.2022 and he has availed the parole period of 03 years, 04 months and 13 days and till 15.01.2024, a period of 18 months more has been added to the actual undergone period including custody as undertrial. As such, in all eventuality, the petitioner has completed more than the minimum required period of 10 years of actual custody for being eligible for the pre-mature parole. In view of the ratio of law laid down by the Hon’ble Supreme Court in *State of Haryana and others vs. Jagdish 2010 (2) RCR (Criminal) 464*, the petitioner cannot be denied the benefit of the applicable policy.

4. Keeping in view the facts and circumstances of the case the impugned order dated 09.04.2022 (Annexure P-3) passed by respondent No.3 is hereby quashed and the official respondents are directed to consider the case of the petitioner for pre-mature release afresh in accordance with the applicable policy within a period of 08 weeks.

January 16, 2024
manisha

(HARPREET SINGH BRAR)
JUDGE

- | | | |
|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |