

CRWP-4847-2024-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

282CRWP-4847-2024
Date of Decision:- 29.07.2024

Kuldeep Singh

....Petitioner

Vs.

State of Haryana and Ors.

...Respondents

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Pranav Chamoli, Advocate for petitioner.

Ms. Aditi Girdhar, AAG, Haryana.

AMARJOT BHATTI, J.

1. Petitioner Kuldeep Singh has filed present petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of impugned orders dated 04.03.2022 (Annexure P-3) and 11.01.2024 (Annexure P-4) whereby application of petitioner for premature release was arbitrarily and erroneously rejected in contravention of the terms of governing Policy dated 12.04.2002 (Annexure P-2) along with writ in the nature of mandamus directing official respondents to reconsider his case for premature release in the light of aforesaid policy.
2. Learned counsel for petitioner argued that petitioner was convicted and ordered to undergo sentence vide order dated 06.09.2003 passed by learned Additional Sessions Judge, Jhajjar which is as under:-

Sr. No.	Section	Imprisonment	Fine	In default
1.	377 IPC	R.I. 7 years	Rs.2,000/-	R.I. 1 month
2.	302 IPC	Life Imprisonment	Rs.5,000/-	R.I. 3 months
3.	201 IPC	R.I. 5 years	Rs.2,000/-	R.I. 1 month

Typed copy of judgment of conviction and order of sentence

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dated 06.09.2003 is Annexure P-1. Appeal preferred against this judgment of conviction and order of sentence bearing No.CRA-D-758-DB-2003 was dismissed vide judgment dated 07.04.2021 and Special Leave Petition (Criminal) No.2994 of 2021 was also declined by Hon'ble Apex Court vide order dated 07.04.2021 which is Annexure P-2. Case of petitioner for premature release was firstly rejected vide impugned order dated 04.03.2022 passed by official respondent No.1 which was against the Policy dated 12.04.2002. Thereafter, his case was again considered for premature release and it was again declined vide order dated 11.01.2024 which are Annexures P-3 and P-4 respectively. The aforesaid orders were passed in contravention to the policy for premature release of life convicts dated 12.04.2002 (Annexure P-5). Petitioner had already undergone custody for the period as provided under the aforesaid policy. Before passing the order competent authority was to look into the conduct of present petitioner. Therefore, aforesaid impugned order may kindly be set aside and his case may be reconsidered for premature release.

3. On the other hand, learned counsel representing State has opposed the petition by filing status report. It is alleged that Policy of Haryana State Government dated 12.04.2002 has been replaced by another Policy of the Government of Haryana dated 13.08.2008 which is Annexure R-2. State Level Committee considered the entire facts of the case with due diligence and considering the crime committed by the petitioner in a gruesome manner, the State Level Committee came to the conclusion that life convict did not deserve any concession of government policy at that stage. Therefore, the claim of present petitioner for premature release was rightly declined.

4. I have considered the arguments and have gone through the record. In the case in hand, present petitioner was convicted in Sessions case No.78/2002 decided on 06.09.2003 titled **“State Vs. Kuldeep Singh”** in FIR No.106 dated 22.05.2001 and he was convicted and sentenced to undergo imprisonment as under:-

Sr. No.	Section	Imprisonment	Fine	In default
1.	377 IPC	R.I. 7 years	Rs.2,000/-	R.I. 1 month
2.	302 IPC	Life Imprisonment	Rs.5,000/-	R.I. 3 months
3.	201 IPC	R.I. 5 years	Rs.2,000/-	R.I. 1 month

It is also admitted fact that appeal preferred by petitioner was dismissed and Special Leave Petition (Criminal) preferred in Hon’ble Apex Court was also dismissed vide order dated 07.04.2021 which is Annexure P-2. First petition filed by petitioner for premature release was declined by State Level Committee vide order dated 04.03.2022(Annexure P-3). Thereafter, there was another application for premature release of the convict which was also declined by State Level Committee vide order dated 11.01.2024 (Annexure P-4). Feeling aggrieved of these orders, present petition has been filed.

5. Case of present petitioner was considered by State Level Committee as per Policy dated 12.04.2002 which is Annexure P-5. Learned counsel representing State took the objection that case of present petitioner is now to be considered under the new Policy dated 13.08.2008 which is Annexure R-2. It is settled proposition that for considering the case of convict for premature release, Policy of State Government on the date of conviction will be the determinative factor. On this point, learned counsel for petitioner has relied upon the judgment of Hon’ble Supreme Court in Writ Petition (Criminal) No.467 of 2022 decided on 24.01.2023 titled

“Hitesh @ Bavko Shivshankar Dave vs. State of Gujarat”. Therefore, case of present petitioner was rightly considered for premature release under the Policy dated 12.04.2002. As per the said policy Annexure P-5, relevant clause para No.2 sub clause (aa) runs as under:-

(aa)	Convicts whose death sentence has been commuted to life imprisonment and convicts who have been imprisoned for life having committed a heinous crime such as:- (i) Murder after rape repeated/chained rape/unnatural offences (ii) Murder with intention for ransom (iii) Murder of more than two persons (iv) Persons convicted for 2 nd time for murder (v) Sedition with murder	Their case may be considered after completion of 20 years actual sentence and 25 years total sentence with the remissions.
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When the case of present petitioner was considered for premature release for second time, his actual sentence was 22 years 05 months 22 days and total sentence 27 years 10 months and 05 days. As per custody certificate Annexure R-1 placed on record with status report his actual sentence is 22 years 11 months 13 days and total sentence is 28 years 04 months and 28 days.

6. In the case in hand, it was offence of sodomy and murder of minor child aged about 3 ½ years. State Level Committee after considering nature of offence and age of child did not find it appropriate to give him the concession of premature release. Policy dated 12.04.2002 Annexure P-5 has been incorporated to consider case of convicts undergoing sentence for committing serious offences. Case of petitioner fall in para No.2 sub clause (aa) of above referred policy. Apart from length of sentence undergone, State Level Committee was to consider over all conduct of the life convict, especially his conduct for the last five years from the date of

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his eligibility for consideration of premature release. This aspect of case has not been considered while passing impugned orders Annexure P-3 and Annexure P-4.

7. In light of this, impugned orders dated 04.03.2022 (Annexure P-3) and 11.01.2024 (Annexure P-4) are not sustainable and are accordingly set aside, with further direction to reconsider the case of present petitioner for premature release as per the policy within a period of two months from the receipt of certified copy of this order.

8. Petition is accordingly disposed of.

9. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

29.07.2024*Sunil Devi***(AMARJOT BHATTI)
JUDGE**

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