

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-8504-2024

Decided on 22.10.2024

Savin @ Sween

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. SS Rana, Advocate for
Mr. Arvind Kumar Sharma, Advocate for the petitioner

Mr. BS Virk, Sr.DAG Haryana

Sandeep Moudgil, J.

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India for quashing the impugned order dated 06.08.2024 (Annexure P2) whereby the premature release case of the petitioner has been declined with a further direction to re-consider the case of the petitioner afresh and release him forthwith in terms of Govt. policy/instructions dated 13.08.2008 (Annexure P1) and in view of the Supreme Court judgment in **Hitesh @ BS Dave vs. State of Gujarat (2023) LiveLaw SC 72** as well as the judgment of this Court in **KK Tiwari vs. State of Punjab 2014 (2) RCR 940**.

(2). The petitioner was convicted vide judgment and order dated 31.03.2010 passed by Addl. Sessions Judge, Rohtak and sentenced to undergo life imprisonment in case FIR No.167 dated 02.07.2007 under Sections 302/34/307 IPC, registered at Police Station Sampla. The petitioner has undergone actual sentence of 16 years, 10 months and 11 days and total sentence of 20 years and 20 days.

(3). Learned counsel for the petitioner submits that the case of the petitioner is covered by para 2(b) of the Premature Release Policy dated 13.08.2008 which requires the petitioner to complete 10 years of actual sentence and including remissions 14 years to be considered for pre-mature release. However, his request was deferred vide impugned order dated 06.08.2024 (Annexure P2) for re-consideration after two years in agreement with the recommendations of the State level Committee in terms whereof, the petitioner being a life convict and having committed double murder of two innocent persons by giving screw driver blows on 01.02.2007 and has also committed jail offences, it was concluded that his conduct is to be further evaluated.

(4). It is argued on behalf of the petitioner that every convict is entitled to have same access to law and he is required to be treated equally both in procedure and substance of the law and since similarly situated convicts have already been granted the concession of premature release and also that petitioner satisfies the mandate of applicable policy, the State cannot indulge in favouritism and deny the same relief to the petitioner.

(5). On the other hand, learned State counsel, on the basis of the averments made in the reply filed by the State, submits that the petitioner cannot claim premature release as a matter of right unless the State Government commutes the sentence of a life convict through a written order under Section 433/433-A CrPC upon considering the behavior of the convict inside the jail, gravity and nature of offence under which he has been sentenced etc. and solely on the basis of completion of a term in jail serving imprisonment and

remissions earned under the relevant rules and law will not entitled automatic release of the petitioner.

(6). It is further averred that the case of premature release of the petitioner has been rejected primarily on the grounds viz. (i) opinion of the Presiding Judge who opined that act of the convict is serious and the kind of offence is not normal and therefore, he is not entitled to be released prematurely; and (ii) his involvement in two more criminal offences apart from overstaying from parole for 1 days.

(7). Heard learned counsel for the parties.

(8). Admittedly, the case of the petitioner falls in Para 2 (b) of the policy dated 13.08.2008 which required the petitioner to undergo 10 years of actual sentence and including remissions 14 years whereas the petitioner has undergone more than 17 years actual sentence of imprisonment and with remissions more than 20 years 2 months sentence after deduction of parole period. It is pertinent to mention here that the conduct of the petitioner inside as well as outside the jail had remained good and satisfactory during the last five years. Further, he has availed parole and furlough peacefully for more than two years and has never misused the same.

(9). The impugned order, in opinion of this Court, does not meet with the statutory and constitutional requirement. The gravity or heinousness of offence is no ground to decline the benefit of the premature release as the gravity of the offence is a factor for awarding the sentence. An accused in view of seriousness of the offence can be ordered to be hanged but once a Court of law after taking the facts and circumstances into consideration in its wisdom has thought it appropriate to award life

imprisonment, that accused becomes an ordinary life convict and the law does not make any distinction between that life convict, who has committed more than one murder and another life convict who has committed only one murder.

(10). After an accused has started undergoing the sentence imposed upon him, his conduct in jail has to be seen. The petitioner in the instant case was released several times on parole and furlough and he maintained peace and no untoward incident happened except that one occasion, he overstayed parole for 1 day. The circumstances and the motive for the offence or even bitter feelings of the complainant-party whose relations have lost their lives would not diminish even after the expiry of full period of 20 years of sentence. This view of mine is reinforced by the views taken a Division Bench of Delhi High Court in **Harbhajan Singh v. Lt. Governor of Delhi. 1988 (2) RCR (Crl.) 125.**

(11). In view of the above discussion, this petition is allowed and the impugned order dated 06.08.2024 (Annexure P2) is set aside with a direction that the petitioner be released forthwith.

22.10.2024

V.Vishal

1. Whether speaking/reasoned?
2. Whether reportable?

(Sandeep Moudgil)

Judge

Yes/No
Yes/No