

arbitrary manner which has been challenged before this Court by way of instant petitions.

2. Learned counsel for the petitioners *inter alia* contends that petitioners in both the cases have undergone more than 24 years of sentence which includes remission. As such, the case of the petitioners is covered under the applicable policy of the year 1991, according to which, convict is required to undergo 20 years of sentence which includes remission and actual sentence of 14 years. As such, the petitioners are covered under the applicable policy however, the impugned orders dated 23.11.2021 and 19.07.2022 are passed only on the objection made by the learned Presiding Judge/Sessions Judge, Chandigarh. However, learned Presiding Judge/Sessions Judge, Chandigarh has raised his objection without examining the case following the objective standards of reason and justice. The Registrar General of this Court has circulated instructions vide letter bearing No.622/Spl./Gnz 11.17, with regard to rendering the opinion of the learned Presiding Officer in terms of Section 432(2) of the Code of Criminal Procedure for considering the application of the convicts for their pre-mature release. According to the instructions issued by this Court, the learned Presiding Judge/Learned Sessions judge shall render his opinion, as and when required by the appropriate Government under Section 432(2) of the Code of Criminal Procedure, by taking into consideration the following factors:

1. The conduct of the convict in prison.
2. Whether the offence is individual act of crime without affecting society at large.
3. The gravity of the offence, the cruelty displayed by the accused while perpetrating crime and the circumstances in which he committed the offence resulting into his

conviction.

4. The genuineness of the reason(s) given by the convict to have temporary suspension/remission of sentence.

5. Whether there is any chance of future recurrence of commission of crime by the convict.

6. Whether the convict has lost his potentiality in committing crime.

7. Whether there is any fruitful purpose of confining the convict anymore.

8. Socio-economic condition of the convict's family.

9. The injury that could be caused to the convict in the event of denial of suspension/remission of sentence.

10. Any danger to the life of convict himself in the event of denial of suspension/remission of sentence.

11. Whether the convict poses a threat to the victim, victim's family or any other person related to the victim.

12. The pendency of an appeal, if any, against such conviction.

13. Other aspects which in the opinion of the Presiding Officer are relevant.

3. The bare perusal of the impugned orders as well as the opinion rendered by the learned Presiding Officer would show that the learned Presiding Officer has not considered all these factors, while objecting to the pre-mature release of the petitioners. The Hon'ble Supreme Court in case of ***Laxman Naskar vs. Union of India (2000) 2 SCC 595*** has considered the issue in extenso and has laid down the following factors to be taken into consideration for the grant of pre-mature release.

- “(a) Whether the offence is an individual act of crime that does not affect the society;*
(b) Whether there is a chance of the crime being repeated in future;
(c) Whether the convict has lost the potentiality to commit crime;
(d) Whether any purpose is being served in keeping the convict in prison; and
(e) Socio-economic conditions of the convict’s family.”

In view of the ratio of law laid down in **Laxman Naskar** (supra) and the instructions dated 21.03.2023 issued by this Court, the impugned order dated 23.11.2021 (Annexure P-4 in Criminal Writ Petition No.1184 of 2021) and impugned order dated 19.07.2022 (Annexure P-5 in CRWP No.7762 of 2022) are hereby set aside. The concerned official respondents are directed to consider the case of the petitioners for pre-mature release afresh, after obtaining opinion of the Presiding Officer in terms of the instructions issued by this Court. The needful shall be done within a period of 02 months as the petitioner Raj Kumar in CRWP-11841 of 2021 was granted the concession of interim parole vide order dated 24.03.2022 passed by this Court and the same relief was extended from time to time vide orders passed by this Court on various dates. As such, till the case of the petitioner-Raj Kumar is decided by the appropriate authority, the parole granted to him shall remain in operation.

Both the cases stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

January 16, 2024
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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |