

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRWP No.11797 of 2023 (O&M)

Date of Decision:16.01.2024

Babbu Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sandeep Verma, Advocate
for the petitioner.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been filed under Article 226/227 of the Constitution of India praying for issuance of the writ in the nature of mandamus, directing the respondents to release the petitioner prematurely as per the policy dated 08.07.1991 issued by the Government of Punjab, as the case of the petitioner has already been recommended by respondent No.4 for premature release, which is pending approval with respondent No.2 for last six months.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner is undergoing sentence for life imprisonment in FIR No.106 dated 18.07.2009 registered under Section 302 IPC at Police Station Sadar, Faridkot and presently confined at Central Jail, Faridkot. The appeal preferred by the petitioner against the judgment of conviction and order of sentence has also been dismissed vide judgment dated 09.09.2013 passed by this Court. The petitioner has undergone more than 10 years of actual incarceration (more than 18 years with parole and furlough) and his conduct during the said period remained good.

It is further contended that as per the policy dated 08.07.1991 issued by the Government of Punjab, a prisoner is required to undergo 10 years' actual sentence. The case of the petitioner is covered under Clause C of Para 1 (1) of the said policy and therefore, a recommendation was made by respondent No.3 for premature release of the petitioner on 17.08.2022. On the said recommendation, a report was sought by respondent No.4 from respondent No.5 with regard to antecedents of the petitioner. Respondent No.5 after verifying the antecedents had sent a report in favour of the petitioner on the basis of which, respondent No.4 recommended the case of the petitioner for premature release on 22.11.2022. Thereafter, the case of the petitioner was sent for approval to the government on 06.05.2023 i.e. after a period of six months, which is pending till now without any rhyme or reason.

3. Notice of motion.

4. On the asking of the Court, Mr. Digvijay Nagpal, AAG, Punjab, who is present in Court, accepts notice for the respondents.

5. Having heard learned counsel for the parties and after perusing the record of the case, it transpires that the petitioner has been convicted under Section 302 IPC and sentence to undergo life imprisonment. He has undergone actual sentence of 10 years 6 months 2 days and with remission and furlough, he has undergone more than 18 years. As such, in all eventualities, the petitioner has completed more than the minimum required period of 10 years of actual custody for being eligible for the pre-mature release in terms of policy dated 08.07.1991 issued by the Government of Punjab. 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* and *Rajkumar Vs. The State of Uttar Pradesh AIR 2023*

SC 265, the petitioner cannot be denied the benefit of the policy applicable on the date of his conviction.

6. Keeping in view the facts and circumstances of the case, the official respondents are directed to consider the case of the petitioner for pre-mature release in accordance with the applicable policy within a period of three months from the date of receipt of certified copy of this order.

7. Admittedly, the case of the petitioner for his pre-mature release is pending with the Government of Punjab since 06.05.2023 and more than 08 months have passed. As such, in view of the directions issued by this Court vide order dated 30.01.2023 passed in COCP No. 2020 of 2022, titled as *Pawan Kumar Vs. D.K. Tiwari and Another*, the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Chief Judicial Magistrate/Illaqa Magistrate concerned and undertaking from the family members of the petitioner to the effect that in case his claim is rejected by the competent authority, he will surrender back to undergo further imprisonment.

8. The instant petition stands disposed of in above terms.

(HARPREET SINGH BRAR)
JUDGE

January 16, 2024
Pankaj/Ajay

Whether speaking/reasoned Yes/No

Whether reportable Yes/No