



**130 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH**

CRWP-152-2025 (O&M)

Date of Decision: 13.01.2025

SANJAY ALIAS SANJEET

...Petitioner

V/S

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Deep Singh Saini, Advocate for
Mr. Krishan Singh, Advocate for the petitioner.

Mr. Pankaj Middha, Addl. AG Haryana.

HARPREET SINGH BRAR J. (Oral)

1. Present petition has been filed under Article 226 of Constitution of India seeking quashing of impugned order dated 05.12.2024 (Annexure P-5) passed by respondent No. 1, whereby the claim of the petitioner for grant of premature release has been rejected.

2. Learned counsel for the petitioner *inter alia* submits that the petitioner has undergone actual sentence of 14 years 05 months and 25 days and total sentence undergone is 20 years 02 months and 29 days including remission. According to the applicable policy i.e. policy dated 12.04.2002, the petitioner falls into Category 'A' and requires 14 years of actual custody and 20 years of total custody to be eligible for premature release. The State Level Committee was required to consider the case of the petitioner in terms of the policy applicable at the time of his conviction, which would be the policy dated 12.04.2002, according to which the petitioner is eligible for premature release. Reliance in this regard has been placed upon the judgments rendered by the Hon'ble Supreme Court in ***Raj Kumar Vs. State of Uttar Pradesh, 2024(9) SCC 598*** and ***State of***

Haryana and others Vs. Jagdish, 2010 AIR (Supreme Court) 1690

wherein the following has been observed :

“The State having formulated Rules and a Standing Policy for deciding cases of premature release, it is bound by its own formulations of law. Since there are legal provisions which hold the field, it is not open to the State to adopt an arbitrary yardstick for picking up cases for premature release”

However, without assigning any reasons, the case of the petitioner has been deferred by two years. Denying the concession of premature release to a convict citing nature of the offence committed by him would defeat the purpose of the policy.

3. *Per contra*, learned State counsel could not controvert the fact that the case of the petitioner was required to be considered under the policy which was applicable at the time of his conviction i.e. policy dated 12.04.2002 or that his case was rejected vide impugned order dated 05.12.2024 (Annexure P-5).

4. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner was convicted by the learned Additional Sessions Judge, Rohtak vide judgment of conviction and order of sentence dated 28.05.2002/30.05.2002 in the case stemming from FIR No. 768 dated 23.11.2002 registered under Section 302 of Indian Penal Code, 1860 at Police Station City Rohtak, District Rohtak.

5. This Court in **CRWP No. 8232 of 2022 (O&M)** titled as ***Pohlu @ Polu Ram Vs. State of Haryana and others*** decided on **05.02.2024** has strongly discouraged the practice of indiscriminately deferring cases pertaining to premature release. In the absence of any

specific provision in the applicable policy, the competent authority cannot act arbitrarily and defer the cases of prisoners for premature release especially by citing change in policy, in view of the law laid down in ***Rajkumar's case (supra)***. A perusal of the policy dated 12.04.2002 does not indicate any provision allowing deferment of the case of an applicant. The competent authority is required to assess the case, strictly in terms of the applicable policy, and pass a reasoned order either accepting or rejecting the applicant's claim for premature release.

6. In ***Rashidul Jafar @ Chota Vs. State of Uttar Pradesh and another [Writ Petition (Criminal) No.336 of 2019]*** decided on 06.09.2022, it has been held by Hon'ble Supreme Court as under: -

“The implementation of the policy for premature release has to be carried out in an objective and transparent manner as otherwise it would impinge on the constitutional guarantees under Articles 14 and 21. Many of these life convicts who have suffered long years of incarceration have few or no resources. Lack of literacy, education and social support structures impede their right to access legal remedies. Once the state has formulated its policy defining the terms for premature release, due consideration in terms of the policy must be given to all eligible convicts. The constitutional guarantees against arbitrary treatment and of the right to secure life and personal liberty must not be foreclosed by an unfair process of considering applications for premature release in terms of the policy.”

7. Therefore, in view of the ratio of law laid down in ***Raj Kumar (supra)***, ***Jagdish (supra)*** and ***Pohlu @ Polu Ram (supra)***, the impugned order dated 05.12.2024 (Annexure P-5) passed by respondent No. 1 is set aside. Further, the official respondents are directed to consider the case of the petitioner afresh, strictly in accordance with the policy applicable at the time of his conviction, preferably within a period of 06 weeks from the



receipt of the certified copy of this order.

7. Disposed of, accordingly.
8. Pending miscellaneous application(s), if any, shall also stand disposed of.

13.01.2025
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No