



287 **IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRWP-1321-2024

Date of decision: 13.05.2025

ABHIJEET SINGH ALIAS ANKUR LIKHARI

...PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Nandan Jindal, Advocate with
 Mr. Aniket Singla, Advocate and
 Mr. Tushar Sabarwal, Advocate
 for the petitioner.

Mr. Rishabh Singla, AAG, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present criminal writ petition has been filed under Article 226 of Constitution of India for issuance of writ in the nature of certiorari for setting aside the impugned order dated 22.11.2023 (Annexure P-7) passed by respondent No.1, vide which the case of the petitioner has been rejected.

2. Short reply by way of an affidavit dated 12.05.2025 of Lakhwinder Singh, PPS, Deputy Superintendent of Police, Sub-Division Attari, Amritsar (Rural) on behalf of respondent No.5, Senior Superintendent of Police, Amritsar (Rural). The same is taken on record. A copy thereof has been supplied to learned counsel for the petitioner.

3. Learned counsel for the petitioner submits that the petitioner was convicted by learned Additional Sessions Judge, Amritsar vide judgment of conviction 20.02.2014 and order of sentence dated 22.02.2014 under Section 302 IPC and was awarded rigorous imprisonment for life and a fine of



Rs.5,000/- along with default mechanism. Learned counsel contends that the case of the petitioner has been rejected on the ground that the petitioner is involved in other cases vide impugned order (Annexure P-7). The impugned order (Annexure P-7) was passed by recording the incorrect facts and it has been mentioned that the petitioner is involved in 33 cases. After filing of the status report by the jail authorities, petitioner has handed over the judgments of all the cases, in which, he has been acquitted. Learned counsel for the petitioner further submits that only one FIR is under investigation in which petitioner is involved and in one case, he has been convicted, and in 24 cases, he has been acquitted. On 21.04.2025, learned State counsel sought a short accommodation to file correct and complete particulars of the status report of the cases, pending against the petitioner. Learned counsel for the petitioner further submits that in compliance of the order passed on 21.04.2025, the respondent-State of Punjab has filed the fresh short reply, as per which, it is affirmed that the petitioner has been acquitted in 24 cases. Furthermore, the case of the petitioner is squarely covered by the ratio of law laid down by this Court in ***Pohlu @ Polu Ram Vs. State of Haryana and others*** passed in ***CRWP No.8232 of 2022*** (Annexure P-4), in which reliance has been placed upon the judgment of Hon'ble Supreme Court in ***Lila Singh vs. State of Punjab, 1988(1) RCR 28***.

4. *Per contra*, learned State counsel opposes the prayer made by the petitioner and submits that the petitioner is not entitled to pre-mature release as he is involved in other cases.

5. 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 learned Additional Sessions Judge, Amritsar vide judgment of conviction 20.02.2014 and order of sentence dated 22.02.2014 in case stemming from FIR No.25 dated 15.01.2010 registered under Sections 302/307/148/149 of Indian Penal Code, 1860 and 25/27-54-59 of Arms Act at Police Station Civil Lines, Amritsar. In view of the law laid down by Hon'ble Supreme Court in ***Lila Singh (supra), Kamal Kant Tiwari vs. State of Punjab and others, 2014(2) RCR (Criminal) 940***, the involvement of the convict in other criminal cases does not make an applicant ineligible for grant of premature release.

6. Relevant part of the judgment in ***Pohlu @ Polu Ram (supra)*** is reproduced hereunder:

“10. Moreover, a Co-ordinate bench of this Court in Subhash v. State of Haryana 1994(3) R.C.R.(Criminal) 489 has held that involvement in other offences would not be a ground to deny the concession of premature release. Speaking through Justice V.K. Jhanji, the following was observed:

“4. It has been held in Lila Singh v. State of Punjab, 1988(1) RCR 28 that reasoning given in the order declining premature release to the petitioner-convict that he had committed jail offences and his release will prove hazardous to peace and tranquillity in the locality are no legal reasons to decline premature release. The reasoning was on the basis that the convict has already undergone imprisonment for committing jail offences and there is no material to hold that his release is likely to prove hazardous to peace and tranquillity in the locality. Thus, it was held that the jail offences committed by the convict for which he has already been punished, cannot be taken into consideration while deciding the case of the petitioner for his premature release.”

Reliance in this regard can also be placed on Kamal Kant Tiwari v. State of Punjab and others 2014(2)



R.C.R.(Criminal) 940 and Lila Singh v. State of Punjab 1988(1)R.C.R(Criminal) 28. A perusal of the policies dated 04.02.1993, 12.04.2002 and 13.08.2008 indicates that involvement in other criminal cases does not make an applicant ineligible for grant of premature release.

11. *The entire edifice of exercise of judicial or quasi-judicial power rests on the foundation of giving reasoned and detailed orders. It is a fundamental principle of natural justice and ensures that there is proper and due application of mind while exercising said power. Therefore, the practice of arbitrarily categorising convicts as threats to society or indiscriminately deferring their cases for premature release needs to be strongly discouraged. It is expedient that the competent authority does not act in a ritualistic fashion and application of mind is discernable.*

12. *A two Judge bench of the Hon'ble Supreme Court in State of Haryana Vs. Jagdish AIR 2010 SC 1690, speaking through Justice Dr. B.S. Chauhan laid down the parameters to consider while deciding upon the question of premature release:*

“38. At the time of considering the case of pre-mature release of a life convict, the authorities may require to consider his case mainly taking into consideration

- 1. whether the offence was an individual act of crime without affecting the society at large;*
- 2. whether there was any chance of future recurrence of committing a crime;*
- 3. whether the convict had lost his potentiality in committing the crime;*
- 4. whether there was any fruitful purpose of confining the convict any more;*
- 5. the socio-economic condition of the convict's family and other similar circumstances.” (enumeration added)*

13. *While the petitioners herein have committed grave and serious offences, once a duly enacted policy is in existence, it must be honoured and applied to each case in its letter and spirit. The theory of reformation and rehabilitation that*

emerged in the 18th century aims at separating the criminal from the crime and compels us to look beyond the one fateful act committed by him. In a civilised society like ours, it would be truly unfortunate if an offender is not given the opportunity to realise and fully fathom his mistake and channel that awareness into making fruitful contributions in society. The peno-correctional institutes must not only be looked at as a place where punishment is carried out, but also a place of rehabilitation. The criminal justice dispensation system must be guided by the idea of allowing the offender to rectify his wrong and reintegrate into the society as a law abiding member once the sentence is served. The idea was well explained Justice Krishna Iyer in Mohammad Giasuddin v. State of Andhra Pradesh (1977) 3 SCC 287 where he stated that "the sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturalisation".

7. Therefore, in view of the above, the impugned order dated 22.11.2023 (Annexure P-7) passed by respondent No.1 is set aside. Further, the official respondents/competent authorities 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 three months, from the receipt of the certified copy of this order.

8. Disposed of, accordingly.

May 13, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |