

2025:PHHC:088916



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

CRWP-1446-2025
Date of Decision: 17.07.2025

Sanjay

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Varinder Singh Rana, Advocate
for the petitioner.

Mr. Kirpal Singh Thakur, AAG, Haryana.

RAJESH BHARDWAJ, J. (ORAL)

1. Prayer in the present petition under Article 226 of the Constitution of India for setting aside the impugned order dated 13.01.2025 (Annexure P-2) passed by respondent No.1 vide which claim of the petitioner for premature release has been rejected by violating the law settled by the Hon'ble Supreme Court by deferring the case for one year. It is further prayed to issue directions to the respondents to reconsider the case of the petitioner for his premature release as he has undergone more than the requisite sentence required for consideration of his premature release.

2. Learned counsel for the petitioner submits that the petitioner is confined in District Jail, Faridabad and is undergoing life imprisonment in case FIR No.1344 dated 29.12.2002 under Sections 120-B/302 read with Sections 120-B/364/395/201 of IPC, 1860 registered at Police Station NIT Faridabad, District Faridabad. He was convicted by the learned trial Court vide judgment dated 09.12.2005, against which he had preferred an appeal bearing CRA-D-

116-DB of 2006 before this Court against the conviction and this Court vide judgment dated 06.10.2012 dismissed the same and thereafter, the petitioner is serving the sentence of life imprisonment at District Jail, Faridabad. He has submitted that the petitioner had filed an application for grant of premature release of life convicts as per policy dated 12.04.2002 issued by the Haryana Government. He has submitted that as per instructions, case of the petitioner is covered by Clause (a) of the policy, according to which the case of a life convict can be considered after completion of 14 years of actual sentence including under trial period provided that the total period of such sentences including remissions is not less than 20 years. He submits that as the petitioner was eligible for his premature release of life convicts in view of the Policy, dated 12.04.2002 (Annexure P-1), his case was recommended for consideration of premature release by the State. However, on consideration of his case, the respondent/State had rejected his case of premature release vide impugned order, dated 13.01.2025 (Annexure P-2) on the ground that the petitioner is convicted for life, who along with other co-accused had committed double murder, which is a heinous offence. Further, it has been ordered that case of the petitioner for premature release will be re-considered after one year. He submits that the view taken by the respondent/State in rejecting his prayer for premature release is totally illegal, unreasonable and hence, unsustainable in the eyes of law. He submits that as per the terms and conditions of the Policy, dated 12.04.2002, the petitioner has already undergone more than the period of sentence required for consideration of his premature release. He, thus, submits that the conclusion arrived at by the respondent/State in holding that the petitioner had committed the heinous offence is in violation of the Policy, dated 12.04.2002, thus, he submits that the impugned order being unsustainable in the eyes of law deserves to be set aside

and now, period of six months has already been passed. Thus, the respondent/State be directed to re-consider the case of the petitioner in accordance with law. He relies upon *State of Haryana Vs. Jagdish*, AIR 2010(SC) 1690 and *Raj Kumar Vs. State of Uttar Pradesh, Writ Petition (Criminal) No.36 of 2022*, decided on 06.02.2023.

3. Per contra, learned State counsel has opposed the prayer made by the learned counsel for the petitioner. He has submitted that case of the petitioner for his premature release of life convicts was forwarded in view of Policy, dated 12.04.2002 (Annexure P-1), however, on consideration, the same was rejected on the ground that petitioner along with other co-accused has committed double murder, which is a heinous offence and he is undergoing life imprisonment. He submits that as per the custody certificate, the petitioner has undergone an actual custody period of 17 years and 15 days as on 16.07.2025 and the total sentence including the remission is 21 years and 26 days. He submits that the Government has exercised its right in a judicious manner and thus, finding the offence committed by the petitioner to be heinous, his case for premature release was rightly rejected and thus, the petition being devoid of any merit deserves to be dismissed.

4. I have heard the learned counsel for the parties and with their able assistance have gone through the record as well. Precise issue involved in the present case is whether the petitioner deserves to be considered for his premature release of life convicts as per Policy, dated 12.04.2002 (Annexure P-1) and the law settled. The petitioner, as observed earlier, had been sentenced for life by the trial Court vide judgment dated 09.12.2005. Appeal filed by him assailing his sentence was dismissed by the Division Bench of this Court vide order dated 06.10.2012. The petitioner had filed his petition for his premature release, which had been declined by the respondents/State by way of passing

the impugned order, dated 13.01.2025. Case of the petitioner for consideration of his premature release is to be considered as per the Policy of the State, dated 12.04.2002 (Annexure P-1). A perusal of the Policy would show the Heinous crime, relevant part of which reads as follows:

(a) Convicts who have been imprisoned for life having committed a heinous crime such as:- xxx xxx xxx xxx	Their cases may be considered after completion of 14 years actual sentence including under trial period; provided that the total period of such sentences including remissions is not less than 20 years.
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5. Although, the respondents have denied the fact that the petitioner is entitled to be released on premature release being covered under Clause 'a' of the policy, but there is no explanation furnished by the respondents to show as to how the case of the petitioner is not covered under said Clause. As per Clause 'a' of the policy, a convict is entitled to be released on premature release after completion of 14 years of actual sentence including under trial and a total period of 20 years of sentence including remissions. A perusal of the custody certificate shows that as on 16.07.2025, total period undergone by the petitioner is 17 years and 15 days and after including remissions he has undergone a period of 21 years and 26 days. The respondents have taken the assistance of factors like heinousness of crime while denying him the benefit of premature release. The petitioner was tried for the offence of double murder and was ultimately convicted and sentenced to undergo life imprisonment. This is true that no convict has the fundamental right of remissions but once his case is covered under the notification issued by the State Government, then he cannot be denied the benefit of the same, to which he has legally entitled.

6. Hon'ble Supreme Court in ***Karamjit Singh vs. State (Delhi Admn.)***, ***AIR 2000 SC 3467*** has held as under:-

"Punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing the offence is

made to realise his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a criminal case, the court has to weigh the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is, what is needed in such a case; a balance between the interest of the individual and the concern of the society; weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead the life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law."

7. Hon'ble Apex Court in Raj Kumar vs State of Uttar Pradesh 2024(9) SCC 598 has held as under:-

"13. 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. It must strictly abide by the terms of its policies bearing in mind the fundamental principle of law that each case for premature release has to be decided on the basis of the legal position as it stands on the date of the conviction subject to a more beneficial regime being provided in terms of a subsequent policy determination. The provisions of the law must be applied equally to all persons. Moreover, those provisions have to be applied efficiently and transparently so as to obviate the grievance that the policy is being applied unevenly to similarly circumstanced persons. An arbitrary

method adopted by the State is liable to grave abuse and is liable to lead to a situation where persons lacking resources, education and awareness suffer the most.”

8. Thus, this Court finds that the impugned order dated 13.01.2025 (Annexure P-2) passed by the respondent/State is unsustainable in the eyes of law and the same is set aside. Present petition is disposed of with a direction to respondent/State to reconsider the case of the petitioner on the anvil of the law settled and pass a fresh speaking order, in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

17.07.2025
Parveen kumar

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No