



CRWP-7445-2024

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

CRWP-7445-2024

Date of decision: 19.02.2025

Tek Singh @ Gurtek Singh

.....Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

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

Mr. J.S. Arora, DAG, Punjab.

RAJESH BHARDWAJ, J.

1. Prayer in the present petition under Article 226 of the Constitution of India praying for issuance of directions to the respondents to release the petitioner forthwith prematurely, as the petitioner has completed the requisite sentence as per Column 1.1 (C) of Policy dated 08.07.1991 available at the time of conviction. The petitioner was required to complete 10 years of actual sentence and with remissions 14 years. The petitioner till date has completed more than 20 years of sentence including remissions. Since the petitioner completed the entire sentence as per Policy dated 08.07.1991, further incarceration of the petitioner is illegal, violative of Articles 14, 19, 21 of the Constitution of India. Further prayer has been made for setting aside order dated 30.05.2024 passed by respondent No.1 vide which claim of the petitioner for premature release has been wrongly rejected as per Article 161 of Constitution of India.

2. It has been contended by counsel for the petitioner that the petitioner was prosecuted in FIR No.215 dated 29.07.2009, under Section



302 of IPC, registered at Police Station City Faridkot, District Faridkot and was also convicted & sentenced for life imprisonment vide order dated 04.06.2010 by learned Sessions Judge, Faridkot. He assailed the said order by way of filing CRA-D-668-DB-2010 however, the same was dismissed by this Court vide order dated 15.09.2015. This order was further assailed by the petitioner by way of filing SLP (Crl) No.999 of 2019 which was also dismissed on 13.12.2019. He submits that petitioner has maintained good conduct in the jail while undergoing his sentence and has availed parole as well but never misused the concession granted to him. It is submitted that petitioner has undergone more than 20 years of sentence with remissions. It is submitted that petitioner is entitled for his premature release in terms of the Policy dated 08.07.1991. It is submitted that as per Column 1.1(C) of the Policy a convict has to undergo 10 years of actual sentence and including remissions 14 years of sentence. It is submitted that petitioner has completed the sentence as per the terms and conditions of the Policy and thus, he is entitled for premature release. However, his case for premature release has been illegally rejected vide impugned order dated 30.05.2024 without considering the Policy dated 08.07.1991 which is applicable to him. He submits that the order passed is totally cryptic and is of utter violation of the statutory provisions and the law settled. He thus, submits that the impugned order being unsustainable in the eyes of law deserves to be *set aside* and petitioner be directed to be premature released.

3. Reply by way of affidavit of Mr. Jaswinder Singh Randhawa, PPS, Superintendent, District Jail, Sri Muktsar Sahib, filed by learned State counsel is already on record. Learned State counsel has opposed the



submissions made by counsel for the petitioner. He submits that in terms of the directions given in COCP-2020-22 Pawan Kumar Vs. D.K. Tiwari and others, petitioner was released on interim bail on 25.05.2023. He has submitted that after considering the case of the petitioner on the basis of the relevant record, the case of the petitioner has been rightly rejected as he was not found entitled for premature release.

4. This Court has heard counsel for the parties and perused the record. Vide order dated 05.12.2024, this Court had directed the petitioner to surrender before the jail authorities on 07.12.2024 at 10:00 AM. It has been apprised that the petitioner had surrendered before the jail authorities in pursuance to the order passed by this Court. The precise issue raised by counsel for the petitioner in the present petition is that case of the petitioner is covered by Column 1.1(C) of the Policy dated 08.07.1991. The respondent-State after considering the plea of the petitioner had rejected the same vide impugned order dated 30.05.2024. As per the provision of the policy any convict is required to complete actual sentence of 10 years and with remissions 14 years of sentence. Admittedly, petitioner had completed actual sentence and the sentence with remissions also which is more than the period as per the terms and conditions of the Policy. Perusal of the impugned order would show that the order passed was not a speaking order as no reason has been assigned by the respondent-State for rejecting the plea of the petitioner.

5. It has been held by the Hon'ble Supreme Court in **Suo Motu Writ Petition (Crl.) No.4 of 2021 with SLP(Crl.) No.529 of 2021 decided on 18.02.2025** that on completion of the eligibility period, all the States are required to initiate the process of consideration for premature



release of the convicts even without any petition being filed by the convicts. The relevant paragraph is as under:-

8. xxxxx xxxx xxxxx
When a State Government or a Union Territory has adopted a policy for the grant of permanent remission which incorporates conditions for eligibility, it becomes an obligation of the State Government or the Union Territory to consider cases of all eligible convicts for the grant of permanent remission as per the policy adopted. If such a policy exists, and if the State Government or the Government or Union Territory raises a contention that relief will be granted only to those who apply as per policy, it will amount to saying that even if convicts are eligible for consideration in terms of the policies, their cases will not be considered in terms of the policy. Such conduct on the part of the States will be discriminatory and arbitrary and amount to a violation of Article 14 of the Constitution. The power under Section 432(1) must be exercised in a fair and reasonable manner. Therefore, whenever there is a policy for consideration of cases for permanent remission, it becomes an obligation of the State to consider cases of every eligible convict under the policy.

6. In the facts and circumstances of the case, this Court finds that the impugned order dated 30.05.2024 is cryptic and unsustainable in the eyes of law. Thus, the same is hereby *set aside*. Petition is thus, disposed of with direction to the State to reconsider the case of the petitioner in the light of the policy framed and the law settled by Hon'ble Supreme Court. The State is directed to pass a fresh speaking order within three weeks from the date of receipt of copy of this order.

(RAJESH BHARDWAJ)
JUDGE

19.02.2025
m. sharma

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