



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

246

CRWP-8907-2023

Date of decision: 28.03.2025

Chetan @ Chintu

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rahul Deswal, Advocate for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J.

1. The petitioner is seeking quashing of order dated 07.08.2023 (Annexure P-4) passed by respondent No.1 whereby his prayer for grant of premature release has been rejected. The petitioner, convicted under Section 302 of the IPC and Section 25 of the Arms Act, 1959 and sentenced to life imprisonment vide judgment dated 02.09.2003 by learned Sessions Judge, Gurgaon, in case FIR No.123 dated 06.07.2000 under Sections 302/34 of the IPC and Section 25 of the Arms Act, 1959, registered at Police Station Pataudi, seeks premature release in terms of the Premature Release Policy (in short, 'Policy') dated 12.04.2002 (Annexure P-3) of the Government of Haryana. The petitioner contends that he is entitled to such consideration under clause 2(b) of the Policy. However, the respondents have erroneously deferred his release until he completes 14 years of actual imprisonment and 20 years of total incarceration, which is a self-contradictory stance.

2. Learned counsel for the petitioner further argues that the



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case of the petitioner is squarely covered under clause (b) of the Policy, which provides that **adult life convicts, whose offences do not fall under the heinous crime categories mentioned in clauses (aa) and (a), shall be considered for premature release after completing 10 years of actual imprisonment, provided that their total incarceration, including remissions, is not less than 14 years.** In support learned counsel has drawn the attention of this Court to clause 2(b) of the Policy (Annexure P-3).

3. It has been further submitted that the petitioner has been in continuous incarceration since 06.07.2000 and has served more than 10 years of actual imprisonment with the total period including remissions exceeding 14 years. Moreover, he has been released on parole and furlough on several occasions without any adverse report, signifying good conduct on his part.

4. Learned counsel for the petitioner has submitted that Hon'ble the Supreme Court has reiterated that remission and premature release policies, once framed, create enforceable rights for convicts, and authorities cannot arbitrarily deny release if the convict fulfills the criteria.

5. Learned counsel has lastly argued that the impugned order dated 07.08.2023 (Annexure P-4), rejecting the claim of the petitioner, is arbitrary, self-contradictory and legally untenable. It has been submitted that, on the one hand, the respondents categorically acknowledge that the petitioner's case falls under clause 2(b) of the Policy. However, in the very same order, they have deferred his release



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until he completes 14 years of actual sentence and 20 years of total sentence, which applies only to cases falling under clause (a). This contradiction, it is argued, renders the impugned order completely unsustainable in law.

6. *Per contra*, learned State counsel while opposing the prayer by the counsel opposite, has justified the deferment of the release of the petitioner. It has been contended that the nature of the offence committed by the petitioner warrants stringent scrutiny before granting premature release. He has argued that in ***Maru Ram Vs. Union of India : AIR 1980 SC 2147***, Hon'ble the Supreme Court held that remission policies must be applied cautiously, keeping in view the nature of the crime and public safety concerns.

7. However, learned State counsel has not disputed that the case of the petitioner falls under clause 2(b) of the Policy. At the same time, the impugned order contradictorily defers his premature release to 14 years of actual sentence and 20 years of total sentence, a standard applicable only to cases falling under clause (a). Learned State counsel has not been able to provide any justification as to why the petitioner is being subjected to a higher threshold of imprisonment when his case admittedly falls under a different and more lenient category.

8. I have heard learned counsel for the parties and perused the relevant material on record.

9. A bare perusal of the impugned order reveals a manifest contradiction in the reasoning provided by the respondents in the impugned order. It has been conceded by the respondents that the



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petitioner falls under clause 2(b), which prescribes eligibility for premature release after 10 years of actual sentence and 14 years of total sentence including remissions. Yet, they have deferred his release to 14 years of actual sentence and 20 years of total sentence, which is exclusively applicable to cases covered under clause within (a), i.e., cases involving heinous crimes.

10. It would be relevant to refer to the relevant extract of the impugned order which reads as under:-

“Total period of sentence undergone by this convict in the jail upto 31.12.2022 is as under:-

	<i>Y</i>	<i>M</i>	<i>D</i>
<i>Actual Sentence</i>	<i>12</i>	<i>00</i>	<i>22</i>
<i>Total sentence</i>	<i>14</i>	<i>00</i>	<i>13</i>

2. The date of conviction of the convict is 12.07.2005. Hence, the premature release policy dated 12.04.2002 is applicable in this case.

This convict has also committed a jail on 08.09.2018 overstayed for one day from parole. Punished with forfeiture of 04 days earned remission.

3. The State Level Committee in its meeting held on 30.06.2023 has considered his case under para 2(b) of the Premature Release Policy dated 12.04.2002. After thorough discussion the Committee recommends that the case for premature release of this life will be re-considered after completion of 14 years of actual sentence and 20 years of total sentence.

4. After agreeing with the recommendations of the State Level Committee, the case for premature release of life convict Chetan @ Chintu son of Devi Dayal will be re-considered after completion of 14 years of actual sentence and 20 years of total sentence.”

11. This self-contradictory approach by the respondents not only undermines the legitimacy of the impugned order but also



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indicates a complete non-application of mind.

12. It is a settled proposition of law that remission policies framed by the State are binding upon the authorities, and once a convict qualifies under the said policy, his case must be considered strictly in accordance with its terms.

13. In the present case, there is no material on record to suggest that the release of the petitioner would pose any risk to public order or security.

14. A decision making authority must apply rational and consistent reasoning while exercising discretion, failing which the order is liable to be struck down for arbitrariness. The absence of any cogent reasoning in the impugned order violates Article 14 and 21 of the Constitution of India. Article 14 guarantees the right to equality and prohibits arbitrary treatment, while Article 21 ensures the right to life and personal liberty, which includes the right to be considered for premature release in a fair and non-arbitrary manner. By imposing a harsher threshold upon the petitioner despite conceding that he falls under clause 2(b), the respondents have acted in a manner that is patently arbitrary, irrational and violative of constitutional rights.

15. Accordingly, the instant petition is allowed and the impugned order is hereby set aside. The petitioner be released forthwith, if his custody is not required in any other case.

28.03.2025

Vinay

(MANJARI NEHRU KAUL)

JUDGE

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