



CRWP-8546-2024

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

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CRWP-8546-2024

Date of decision : 01.04.2025

Jumma @ Amin

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Sween Chaudhary, Advocate, for the petitioner.

Mr. Harkesh Singh, AAG, Haryana.

HARPREET SINGH BRAR, J. (Oral)

1. The prayer in the instant petition filed under Article 226/227 of the Constitution of India read with Section 482 Cr.P.C. is for quashing the impugned order dated 13.10.2021 (Annexure P-4) passed by respondent No.1, whereby prayer for grant of premature release has been rejected and deferred for reconsideration after completion of 20 years actual sentence and 25 years of total sentence despite fulfilling the conditions mentioned in the premature release Policy dated 13.08.2008(Annexure P-3) and i.e. violative of para 17(iii) of the order passed by this Court in CRWP-8283 of 2022.

2. Learned counsel for the petitioner, *inter alia*, contends that the petitioner is at present undergoing his life imprisonment in District Jail, Faridabad. The petitioner was convicted vide impugned judgment of conviction dated 04.03.2009 and impugned order of sentence dated 10.03.2009 passed by the learned Additional Sessions Judge, Jind and he was awarded rigorous imprisonment for life under Section 302 read with Section 149 IPC and awarded RI for 7 years under Sections 412 and 148

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IPC. Thereafter, petitioner preferred an appeal against his conviction and this Court has acquitted the petitioner for an offence under Section 412 read with Section 149 IPC and Section 148 IPC. However, his conviction was maintained under Section 302 read with Section 149 IPC. Admittedly, the petitioner was convicted in the year 2009 and accordingly his case would be covered by the Policy of 13th August, 2008 (Annexure P-3) and as per the aforementioned policy, the petitioner was required to undergo actual sentence of 14 years for the purpose of premature release. The State Level Committee has rejected the case of the petitioner for premature policy on the ground that petitioner is accused of double murder of Tarsem Chand and Bhoti Devi, aged 70 and 60 years respectively and as such, it has been concluded that the case of the petitioner falls under Clause-A of the Premature release Policy dated 13.08.2008 (Annexure P-3) and his case for premature policy was deferred and it was decided to place his case before the State level Committee for consideration after completion of 14 years of actual sentence and 25 years of total sentence. He further referred to para 11 of the reply filed by the respondents No.1 to 4 and submits that appellant has undergone actual custody of 1 year 10 months and 09 days as undertrial and he has undergone 15 years 6 months and 21 days after his conviction. His actual undergone period is 17 years 4 months and 2 days and as such, the petitioner is fully entitled to be released as per policy of premature release. Learned counsel further submits that his case is squarely covered by the judgment of this Court in case of ***Pohlu @ Polu Ram Vs. State of Haryana*** passed in ***CRWP-8232-2022***. The relevant paras No.11 and 12 & 17(iii) are reproduced as under:

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)*

17.(iii) *Deferred in the absence of any specific provision in the applicable policy or rejected/deferred on the ground of offences being grave and serious in nature.*

In the absence of any specific provision in the applicable policy at the time of conviction of the convict, the competent authority cannot act arbitrarily and defer the cases of prisoners for premature release especially by applying the rigours of change of policy, in view of the law laid down in Rajkumar's case (supra).

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3. In view of the discussion made hereinabove, the impugned order dated 13.10.2021 (Annexure P-4) is set aside and competent authority is directed to consider the case of the petitioner afresh within a period of 3 months from the date of receipt of certified copy of this order strictly in terms of judgments in case of *State of Haryana Vs Jagdish, AIR 2010 SC 1690* and *Pohlu @ Polu Ram Vs. State of Haryana passed in CRWP-8232-2022*.

4. It is further made clear that in case any deviation by the concerned authority in deciding the case of the petitioner from the applicable policy, would entitle the petitioner to initiate the contempt proceedings by filing appropriate application under Article 215 of the Constitution of India.

(HARPREET SINGH BRAR)
JUDGE

01.04.2025**anil**

Whether speaking / reasoned Yes/No

Whether Reportable Yes/No