



244

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

CRWP-8612-2024

Date of Decision:- 18.08.2025

HAIDER ALI

....Petitioner

Vs.

STATE OF HARYANA AND OTHERS

...Respondents

CORAM:- HON'BLE MRS. JUSTICE AMARJOT BHATTI

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

Mr. Ayuwan Singh, AAG, Haryana.

AMARJOT BHATTI, J.

1. Petitioner has filed criminal writ petition under Article 226 of Constitution of India for setting aside impugned order dated 06.08.2024 (Annexure P-2) passed by respondent No.1 vide which case of petitioner for premature release has been rejected and deferred the case of petitioner for 2 years in contravention to the premature release policy dated 11.08.2008 endorsed on 13.08.2008 and further incarceration of petitioner is illegal, arbitrary and against principles of natural justice and with prayer for release of petitioner on interim bail till the final decision of the case of petitioner by the competent authority or any other direction which the Court may deem fit and proper in the given facts and circumstances of the case.

2. Learned counsel for petitioner argued that petitioner was



involved in FIR No.288 dated 19.08.2012 under Sections 376 (2) (f) of IPC, Police Station Surajkund, District Faridabad and he was convicted for life imprisonment vide judgment and order of sentence dated 30.03.2013 passed by learned Additional Sessions Judge, Faridabad. Against the aforesaid judgment and order of sentence, petitioner has filed criminal appeal bearing CRA-D-727-DB-2016 which is pending for decision before this Court. Petitioner maintained good conduct in the jail while undergoing sentence and whenever he was released on parole. Premature release policy applicable to the petitioner dated 11.08.2008 endorsed on 13.08.2008 is Annexure P-1. The case of the petitioner was wrongly rejected without considering various judgments passed by Hon'ble Supreme Court of India. In the case in hand, opinion of the Presiding Officer was sought under Section 432 (2) Cr.P.C. and it was opined that it is not safe for the public at large to release the life convict and to consider his case for premature release. Copy of order dated 06.08.2024 is Annexure P-2. The State Level Committee has passed the impugned order without application of mind and without considering the decision of this Court passed in CRWP-8232 of 2022 decided on 05.02.2024 (Annexure P-4). The Competent Authority has acted arbitrarily and deferred the case of petitioner for 2 years. In the absence of any specific provision in the said policy, competent authority could not arbitrarily defer the case of petitioner for consideration. Even otherwise, this Court has opined that opinion of Presiding Officer called for premature release of any prisoner is not binding. The conduct of petitioner remained satisfactory and he is not involved in any other criminal case. He has already undergone more than the sentence required as per policy dated 11.08.2008 endorsed on 13.08.2008.



3. Learned counsel representing petitioner has referred to the various judgments i.e. *State of Haryana Vs. Jagdish AIR 2010 SC1690, Raj Kumar Vs. State of Uttar Pradesh (Writ Petition (Criminal) No.36 of 2022) decided on 06.02.2023* and many other judgments detailed in para No.8 of the petition. With these arguments, it is submitted that impugned order dated 06.08.2024 (Annexure P-2) is illegal, arbitrary and against the principles of natural justice. Therefore, it is liable to be set aside and the petitioner is entitled to premature release under the policy dated 11.08.2008 endorsed on 13.08.2008 (Annexure P-1).

4. Petition is opposed by respondent Nos.1 to 3 who also filed reply by way of affidavit. It is pointed out that present petitioner Haider Ali had committed rape upon prosecutrix aged about 6 years who was student of LKG on 19.08.2012 regarding which FIR No.288 dated 19.08.2012 was registered under Section 376 (2) (f) IPC, Police Surajkund, Faridabad and accordingly, he was sentenced to life imprisonment by learned Additional Sessions Judge-1, Faridabad on 30.03.2013. It is conceded that appeal against aforesaid judgment and order of sentence is pending before this Court. Petitioner cannot claim premature release as a matter of right unless the State Government commutes the sentence of life convict through a written order under the appropriate law. The State Government has framed premature release policy from time to time for consideration of cases of life convicts for their premature release. It is only the concession given by the State Government after considering the behaviour of convict inside the jail, gravity of offence, nature of offence, manner and circumstances under which the crime was committed along with other facts and circumstances of the

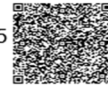


case. It is pointed out that the convict cannot claim premature release as a matter of right. At the time of filing of reply, petitioner had undergone actual sentence for 10 years 4 months and 29 days and with remission 14 years 2 months. In reply, number of judgments are referred to. Case of petitioner was duly considered by the competent authority and it was rightly rejected by passing detailed speaking order dated 06.08.2024 (Annexure P-2). It is submitted that petition filed by the petitioner deserves dismissal.

5. I have considered the arguments advanced by learned counsel for the petitioner and learned counsel representing State carefully and perused the record with their able assistance. In the case in hand, petitioner was convicted and sentenced life imprisonment in FIR No.288 dated 19.08.2012, under Sections 376 (2) (f) IPC, Police Station Surajkund Faridabad for committing rape of a child victim aged 6 years on 19.08.2012 who was student of LKG. Appeal against this judgment is pending before this High Court. Petitioner has sought premature release on the basis of Haryana Government Jail and Judicial Department notification dated 11.08.2008 endorsed on 13.08.2008 (Annexure P-1). As per this policy, case of the petitioner falls under Clause ‘C’ which runs as under:-

“Convicts who have been imprisoned for life having committed a crime which is defined in IPC as punishable with life imprisonment but not with death sentence.	Their cases may be considered after completion of 10 years actual sentence including under trial period provided that the total period of such sentence including remission is not less than 14 years.
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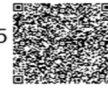
As per this policy, there are other clauses and according to



clause - '4' *'all premature release cases under this policy shall be subject to Section 433-A Cr.P.C.'*

Under this policy, case of petitioner was considered by State Level Committee as per Rules and finally it was rejected vide order dated 06.08.2024 (Annexure P-2).

6. Now this Court is required to see as to whether petitioner can claim premature release under the aforesaid policy (Annexure P-1) on completion of requisite custody period as a matter of right or not. State Government has formulated the said policy to streamline the process of cases of all convicts who are covered under the policy. For different categories of offences, there is different criteria. As referred above, present petitioner is covered under Clause - 'C' and had completed minimum requisite sentence, as a result, his case was sent for consideration for premature release by the competent authority i.e. the Committee formulated under the said policy. Facts and circumstances of each case has to be considered. The Competent Authority is to exercise its discretion by considering the facts and circumstances of the case and required to pass speaking and well reasoned detailed order. In the case in hand, as per the impugned order (Annexure P-2) under the provision of Section 432 (2) Cr.P.C. opinion of Successor Court was obtained which was against the petitioner for considering his case for premature release. State Level Committee considered all the facts and circumstances of the case as well as the offence committed by the petitioner for which he was convicted by the trial Court and finally State Level Committee came to the conclusion to consider the case of present petitioner for premature release after 2 years. With this observation, case for premature



release was rejected.

7. Therefore, it cannot be said that on completion of requisite custody period as detailed under the aforesaid policy dated 11.08.2008 endorsed on 13.08.2008 (Annexure P-1) petitioner has got a right for premature release. Court is to strike balance between the fundamental rights of the petitioner – convict as well as of the victim and her family and the impact of crime on the society. The very objective of punishment is to encourage and enforce proper social behaviour. The punishment has purpose i.e. deterrence, incapacitation, rehabilitation, retribution and restitution. Competent Authority is required to pass an order after considering all the aspects of the case.

8. In light of this, I do not find any illegal or irregularity committed by the competent authority by rejecting the case of petitioner for premature release, with observation to reconsider his case after 2 years.

9. Consequently, petition filed by petitioner is accordingly declined.

(AMARJOT BHATTI)
JUDGE

18.08.2025
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Whether speaking/reasoned	:	Yes/No.
Whether reportable	:	Yes/No