



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

CRWP-10986-2024

Date of decision: 27.01.2025

RATTAN SINGH

...PETITIONER

V/S

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Lajpat Rai Sharma, Advocate
for the petitioner.

Mr. Harkesh Kumar, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present criminal writ petition has been filed under Article 226 of Constitution of India for issuance of writ in the nature of certiorari for setting aside the impugned order dated 11.01.2024 (Annexure P-3) passed by respondent No.1, vide which the case of the petitioner has been rejected and deferred to be re-considered after two years.

2. Learned counsel for the petitioner submits that the petitioner was convicted by learned Sessions Judge, Karnal vide judgment of conviction 12.03.2008 and order of sentence dated 15.03.2008 under Section 302 IPC and was awarded rigorous imprisonment for life along with default mechanism. Learned counsel contends that the case of the petitioner is covered by pre-mature policy dated 12.04.2002 (Annexure P-2), which requires 14 years of actual imprisonment including undertrial period for pre-mature release and the petitioner has undergone actual sentence of 16 years, 05 months and 16 days and along with the remission, his custody comes out to be 23 years as on 25.01.2025. He further contends that the petitioner has displayed good



behaviour while on parole and even on furlough and he is not accused of any jail offence or misused the concession of parole granted to him from time to time. Learned counsel further submits that vide the impugned order, the case of the petitioner was unfairly dismissed on the ground that the petitioner has committed a heinous crime and his case was deferred for two years, which is not only passed in violation of the relevant policy and the same is also violative of his rights under Articles 14 and 21 of Constitution of India. The case of the petitioner is squarely covered by the ratio of law laid down by this Court in ***Pohlu @ Polu Ram Vs. State of Haryana and others*** passed in ***CRWP No.8232 of 2022*** (Annexure P-4). Reliance in this regard has also been placed upon the judgments rendered by the Hon'ble Supreme Court in ***Raj Kumar Vs. State of Uttar Pradesh, 2024(9) SCC 598*** and ***State of Haryana and others Vs. Jagdish, 2010 AIR (Supreme Court) 1690***. However, without assigning any reasons, the case of the petitioner has been deferred by two years. Denying the concession of pre-mature release to a convict citing nature of the offence committed by him would defeat the purpose of the policy.

3. *Per contra*, learned State counsel could not controvert the fact that the petitioner has already undergone a period of 23 years, 08 months and 25 days, out of which, his actual custody after conviction is 15 years, 06 months and 19 days as on 25.01.2025 and as per his custody certificate, he is not accused of any jail offence or accused of misuse of the liberty granted to him at the time of parole or furlough.

4. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner was convicted by learned Sessions Judge, Karnal vide judgment of conviction 12.03.2008 and order of sentence dated 15.03.2008 in case stemming from FIR



No.118 dated 17.04.2007 registered under Section 302 of Indian Penal Code, 1860 at Police Station Assandh.

5. This Court in *Pohlu @ Polu Ram (supra)* has strongly discouraged the practice of indiscriminately deferring cases pertaining to premature release. In the absence of any specific provision in the applicable policy, the competent authority cannot act arbitrarily and defer the cases of prisoners for pre-mature release especially by citing change in policy, in view of the law laid down in *Raj Kumar's case (supra)*. A perusal of the policy dated 12.04.2002 does not indicate any provision allowing deferment of the case of an applicant. The competent authority is required to assess the case, strictly in terms of the applicable policy, and pass a reasoned order either accepting or rejecting the applicant's claim for premature release.

6. Therefore, in view of the ratio of law laid down in *Raj Kumar (supra)*, *Jagdish (supra)* and *Pohlu @ Polu Ram (supra)*, the impugned order dated 11.01.2024 (Annexure P-3) passed by respondent No.1 is set aside. Further, the official respondents are directed to consider the case of the petitioner afresh, strictly in accordance with the policy applicable at the time of his conviction, preferably within a period of 06 weeks from the receipt of the certified copy of this order.

7. Disposed of, accordingly.

January 27, 2025
manisha

(HARPREET SINGH BRAR)
JUDGE

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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |