
(1996) 02 P&H CK 0077

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 12638-M of 1995

Ghaseeta Ram

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 26-02-1996

Acts Referred:

Citation : (1996) 2 RCR(Criminal) 681

Hon'ble Judges : V.S.Aggarwal, J

Advocate : Ashwani Talwar, S.K. Hooda, Veena Ashwani Talwar, Advocates for appearing Parties

Judgement

V.S. Aggarwal, J.

1. This is a petition filed by Ghaseeta Ram son of Ram Dayal (hereinafter described as "the petitioner") for quashing the order passed by the respondents (Annexure P4). By virtue of the said order it had been directed that since the petitioner had escaped from jail and keeping in view this conduct in jail, he is to be watched for two years and, thereafter, the case for premature release is to be considered.

2. The relevant facts are that on 10.6.1980 the petitioner was sentenced by the learned Sessions Judge, Gurgaon to undergo imprisonment for life. Prior to that he was an undertrial prisoner from 10.12.1979. While undergoing imprisonment in the district jail, the petitioner alongwith others was tried by the learned Additional Sessions Judge, Bhiwani in F.I.R. No. 214 dated 16.9.1984 for offences punishable under Sections 307, 342 and 322 read with Sections 149 and 224 IPC. He was convicted by the Court of Sessions and preferred an appeal. In appeal he was held guilty for the offences punishable under Sections 323/149, 148, 342/149, 332/149 and 224 IPC. He was sentenced to undergo one year rigorous imprisonment. It was further ordered :

"The appellants were undergoing various terms of imprisonments in some other cases when they committed the present offences in the jail. Thus, their

confinement in the jail while undergoing the sentences in the earlier cases shall have to be treated as sentence in this case after their formal arrest and the sentence in this case shall run concurrently.

Thus, they have already undergone more than the prescribed sentence for various offences now maintained by this Court. Their bail bonds etc. are discharged. The appeals stand partly allowed to the extent indicated above".

3. The petitioner's assertions are that as on 10.7.1995 he has already undergone 15 years 6 months and 14 days actual imprisonment and has earned 5 years and 4 months remissions excluding the parole period. The sentence undergone is 20 years 5 months and 14 days. He claims that as per policy framed by the State Government on 19.11.1991, the case of an adult convict has to be considered after completion of 10 years actual sentence. He was not released. He had preferred Crl. Miscellaneous No. 12426M of 1994. It was decided by this Court on 14.3.1995. It was held that since the case of the petitioner is under consideration, a decision be taken within a fortnight. Thereupon the case of the petitioner was considered but the same was deferred for two years on petitioner's having committed 6 jail offences. Petitioner claims that the earlier jail offences cannot be taken into consideration.

45. Notice of the application had been issued to the respondents. In the reply filed it was not disputed that as on 10.7.1995 he had already undergone total sentence of 15 years 6 months and 12 days and has earned remissions of 5 years 6 months and 17 days. However, the defence was that case of the petitioner for premature release had been deferred on the observations of State Level Committee. His conduct remained persistently bad. The order passed by the Financial Commissioner & Secretary to Haryana, Jails Department (Annexure R1) has also been appended which gives the reasons for deferring the case of the petitioner for two years reads :

- "1. 26.9.84 Found Rs. 110/ from his possession. Money confiscated
2. 16.8.88 Refused to work in the Factory section and abused the jail officials Formal warning.
3. 28.1.89 Threw the Tiffin box in the factory Formal warning.
4. 21.6.89 He theft the coupons of Rs. 20/ of convict Ranjit s/o Jokhi Ram Coupons recovered Cross Bar Fetters for 192 hours.
5. 22.11.89 Quarrelled with another prisoner Cross Bar fetters for 240 hours.
6. 2.9.90 Quarrelled with CNW Arjun Singh s/o Devi Singh Formal warning.

Besides this, this life convict had escaped from the jail for the period from 23.1.92 and remained absconding till 8.2.92 and two cases have been registered against him.

Keeping in view his bad conduct in the jail and in view of his escape from the jail,

the Committee recommended that Superintendent Jail should watch his conduct for two years and after that send his report about his conduct in the jail during this period for reconsideration of his premature release case. Accordingly premature release case of this life convict is deferred for two years".

6. (sic) the sole contention raised was that the case of the petitioner has been rejected on the sole ground that he has committed certain jail offences. The attention was drawn to the decision of Division Bench of this Court in Crl. Misc. 1471M of 1993, decided on 22.8.1995. The State of Haryana was directed to take a decision and decide the period for which the jail punishment has to be taken into consideration. But it was further concluded that during the intervening period, the jail offences beyond 3 years should not be considered. The six jail offences purported to have committed by the petitioner are of prior 3 years from today. In light of the judgment of the Division Bench, the same cannot be considered.

7. Consequently, for these reasons the petition is allowed and it is directed that in light of the aforesaid, they may take afresh decision for premature release of the petitioner. They may also consider the cases that are pending against him for this absconding from 23.1.1992 to 8.2.1992.