
(1987) 08 P&H CK 0058

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 91 of 1987

Gurdev Singh-detenu

APPELLANT

Vs

State of Punjab and anr.

RESPONDENT

Date of Decision : 26-08-1987

Acts Referred:

Citation : (1988) 1 RCR(Criminal) 276

Hon'ble Judges : K.S.Bhalla, J

Advocate : Vanita Kataria, V.K. Jindal, Advocates for appearing Parties

Judgement

K.S. Bhalla, J.

1. Petitioner Gurdev Singh is serving life imprisonment in Central Jail, Jalandhar. He is undergoing the sentence since 10th July, 1975 and according to him he has already undergone actual sentence of 12 years, 1 month and 10 days and the remissions earned by him go to the extent of 8 years and 7 months. He has alleged that thus the total sentence undergone by him comes to 20 years, 8 months and ten days when being below 20 years in age he was entitled to premature release after completion of 6 years of actual sentence and 10 years sentence including remissions under the Standing Instructions of the State Government. He has further alleged that his case for premature release was considered and rejected seven times, last rejection order being dated 28th October, 1986. The same has been impugned through this writ petition contending that the action of the State Government was mala fide exercise of power and the petitioner had been deprived of the benefit of premature release arbitrarily.

2. In the written statement filed on behalf of the respondents by way of affidavit of Deputy Secretary (Home), Punjab, Chandigarh, it is admitted that as per warrants of custody, the convict was below 20 years of age; that that he had undergone 12 years 2 months and 9 days of actual imprisonment and had earned remission of 8 years 10 months and 6 days. The period of remission earned by the petitioner indicates that his conduct in jail has generally been

good. It is further admitted in the written statement that as per existing instructions, his case for premature release had been considered on a number of occasions and rejected and that last time it was considered in October, 1986 and was rejected on merits. In para 3 of the petition, the petitioner has quoted order dated 5.4.1984 of this Court wherein it is mentioned that counsel for the State had conceded that the two jail punishments on the basis of which the case of the petitioner was rejected four times earlier will not be taken into consideration at the time of next consideration of the case of the petitioner for premature release. The contents of that para have been admitted in the written statement. Despite that the case of the petitioner was rejected thrice thereafter without indicating about his conduct in jail or any other subsequent consideration after 5th April, 1984.

3. The Supreme Court has ruled time and again that bald statement of the State Government with regard to law and order situation or such other things without any attempt to express as to how the law and order was likely to be adversely affected by the release of a convict, cannot be accepted. In view of the above referred to undertaking the State Government could not have been influenced by the old jail punishments. Even otherwise, if they are to hold good for all times to come there is no purpose at all to reconsider the case of a convict for premature release again and again. The very fact that the Government requires resubmission of the case after lapse of some time should be taken to mean that the State Government wanted to take into consideration the subsequent conduct of the convict. This is the real import of reformative legislation and instruction. I am of the view that unless there are strong reasons for holding otherwise a convict who has undergone a long period of more than 20 years of imprisonment in all including more than 12 years actual imprisonment should be given a chance to lead a normal life and to prove to be a good citizen particularly when he is young in age admittedly. Without that he cannot get a chance to improve. The case of the petitioner was rejected on the ground that he was a desperate character. No material or data, however, is provided in the order on which this conclusion is based. No incident within the period between the last two considerations of the case of the petitioner for premature release has been cited which may be taken to provide release for leading to such an inference. Further it is mentioned in the impugned order (Annexure P1) that there was no extenuating circumstances or other compassionate grounds to warrant his premature release. This sentence does not make one wiser with regard to considerations which weighed with the Government. Under the circumstances, the impugned order cannot be upheld.

4. However, through the endorsement by which a copy of the order was forwarded to the Inspector General of Prisons, Punjab, Chandigarh, he was requested to refer that case again after one year with fresh reports. That one year naturally is expiring after two months i.e. 27th October, 1987 and when fresh reports are called, I have no reason to believe that those sent by the jail authorities with regard to the conduct of the convict during that period of one

year shall not be taken into consideration at the time of fresh consideration of the case. As already observed above in fact that should be the only basis of consideration. Under the Circumstances the State Government is directed to consider the case of convict Gurdev Singh for premature release within four months and pass appropriate orders by a reasoned or speaking order in any case within six months from today. I would impress upon the State Government the necessity to consider the case of the convict with expedition and to pass appropriate order in view of the facts and circumstances of the case weighting the same sympathetically in the light of the above observations, particularly when the period already spent by him is long enough to entitle him to avail of the provisions for securing his premature release as per relevant rules, admittedly.

JUDGMENT accordingly.