
(2011) 03 P&H CK 0248
In the Punjab And Haryana At Chandigarh
Case No : Criminal Misc No. M-6599 of 2011

Jagat Ram

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 23-03-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 201, 302, 34

Citation : (2011) 03 P&H CK 0248

Hon'ble Judges : Nawab Singh, J

Bench : Single Bench

Judgement

Nawab Singh, J.—Jagat Ram-Petitioner was convicted by Sessions Judge, Hoshiarpur in case bearing First Information Report No. 93 dated May 17th, 1998, Police Station-City, Hoshiarpur under Sections 302 and 201 read with Section 34 of Indian Penal Code and was sentenced to undergo imprisonment for life vide judgment dated December 22nd, 1999. He is now confined in Central Jail, Ludhiana.

2. The case of the Petitioner for pre-mature release was forwarded to the District Magistrate, Ludhiana on completion of his sentence as per Policy of the State Government dated July 8th, 1991. District Magistrate, Ludhiana recommended his case for premature release but by order dated January 6th, 2011 (Annexure P/1), Principal Secretary, Government of Punjab, Department of Home Affairs and Justice, Chandigarh, rejected the same on two grounds viz.-(i) the Petitioner murdered his wife after pouring kerosene upon her and as such, he committed heinous crime and (ii) he belongs to Uttar Pradesh and District Magistrate, Gonda (UP) did not recommend the case for his premature release. For facilitation, the operative part of the order (Annexure P/1) is reproduced as under:

--it is found that the Distt. Magistrate, Gonda (U.P.) and SSP, Gonda (U.P.) have submitted report and have raised objection for grant of premature release. It has been reported that the families of both the parties are residing in the same village and are neighbours and there is enmity and tension between both the

parties and there is apprehension of untoward incident, in case he is released from jail prematurely.

3. Indeed, the Petitioner has already undergone actual sentence of 12 years 9 months and 13 days, and 20 years 8 months and 15 days including remissions, as on March 15th, 2011, per custody certificate (Annexure R/1).

4. By filing the present petition, the Petitioner has urged that the grounds, on which his case was rejected, are not cogent.

5. Learned Counsel for the Petitioner has pointed out that the judgment of conviction and order of sentence passed by the trial Court shows that the Petitioner did not cause murder of his wife, rather he was convicted for the murder of a man. It appears that the case of the Petitioner was rejected on this ground without application of mind by the authorities. He further submitted that the ground on which the District Magistrate, Gonda rejected the case of the Petitioner for premature release is not convincing and is rather arbitrary.

6. In *Bhagwant Saran and Ors. v. State of U.P. and Ors.* 1983 (1) C.L.R. 504, the Committee appointed to report on the conduct of prisoners, recommended their release but the State Government did not accept the same and rejected the case for premature release of the Petitioners keeping in view the law and order situation. The ground of rejection was not accepted by the Hon'ble Supreme Court and ordered the release of the Petitioners forthwith.

7. In *Life Convict Laxman Naskar v. State of West Bengal* 2000 (4) R.C.R. (Cri) 18, the case for pre-mature release of the Petitioner, undergoing imprisonment for life, who had completed the total sentence of 23 years including remissions, was rejected on the following grounds:

(i) Two witnesses who had deposed before trial Court and people of locality were apprehensive of acute breach of peace.

(ii) Petitioner was person of about 43 years of age and had the potential of committing crime.

(iii) Incident in relation to which crime had been committed was the sequel of political feud affecting the society at large.

Hon'ble Supreme Court observed that the case of the Petitioner could not have been rejected on these grounds and remitted the same to the Government of West Bengal for re-examination.

8. Hon'ble Supreme Court in *Mukhtiar Singh v. State of U.P.* (Special Leave to Appeal (Crl.) No. 5020 of 2005, decided on October 29th, 2007) ordered the release of the accused-person on completion of more than 14 years of imprisonment.

9. Above being the legal and factual position, the grounds, on which the case of the Petitioner for premature release was rejected, are not sustainable. Hence,

the Government of Punjab is directed to re-consider the case of the Petitioner in the light of the aforesaid judgments of Hon''ble Supreme Court and the fact that he has already completed the sentence imposed upon him, as pleaded by the State Government in the reply itself.

10. It is further ordered that till the case for pre-mature release of the Petitioner is decided by the State Government, he shall be released on parole on his furnishing personal bond and a surety bond to the satisfaction of District Magistrate, Hoshiarpur. The Petitioner shall give an undertaking that he will not leave the country without prior permission of the Court and will keep peace and shall not indulge in any nefarious activity whilst on parole.

11. After receipt of order from the State Government, Superintendent, Central Jail, Ludhiana shall inform the Petitioner accordingly.

12. Disposed of.