

(2011) 02 P&H CK 0094

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M 4975 of 2011 (O and M)

Joginder Singh @ Ginder

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 16-02-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 432

Citation : (2011) 02 P&H CK 0094

Hon'ble Judges : Nawab Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Nawab Singh, J.—By filing this petition, Petitioner seeks benefit of remissions during the period, he remained on bail.

2. Para 637 of the Punjab Jail Manual stipulates that remission system is not applicable upon a person, who is on bail. In Joginder Singh v. State of Punjab 2001 (4) RCR 341, Hon"ble Supreme Court observed as under:

9. With respect, we are unable to agree with the learned Counsel for the said Respondents. In other words, acceptance of this argument, in our opinion, would reduce the criminal justice system to mockery as has been said by this Court in Nauratta Singh's case (supra). In the cases cited by the Appellant, this Court has categorically held that there is substantial difference between the words "parole" and "furlough" on one hand and the expression "bail" on the other. These judgments have also held that persons who are enlarged on bail cannot claim the benefit of the period during which they were on bail for the purpose of counting the period of sentence already undergone to apply the remission given by the Government. In view of this clear enunciation of law, in our opinion, even by the inclusion of the word "bail" in the notification of the Punjab Government an accused who has always remained on bail or has not served the substantial part of his sentence cannot take advantage of the remission notification.

3. In *Om Parkash v. State of Haryana and Ors.* (Criminal Misc. No. 97-M of 1999), this Court by order dated April 7th, 1999 granted benefit of remissions given by the Haryana Government to the Petitioner while he was on bail. State of Haryana filed Criminal Appeal No. 301 of 2000 against the said order of this Court. By order dated March 27th, 2000, the Hon''ble Supreme Court allowed the appeal by holding as under:

The question of law raised in this appeal has already been answered in two judgments of this Court, namely, Criminal Appeal No. 141/2000 and batch as well as in Criminal Appeal No. 933/1998. It has been held in these two decisions that the High Court was not right in holding that the accused is entitled to remission of the sentence under the circulars in question issued u/s 432 of the Code of Criminal Procedure, for the period, they were released on bail. Following the aforesaid two judgments, we set aside the impugned judgment of the High Court and allow this appeal

4. Above being the legal and factual position, the Petitioner is not entitled to remissions during the period, he was on bail.

5. Dismissed.