
(1984) 03 P&H CK 0070

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 41 of 1984

Khushal Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 14-03-1984

Acts Referred:

Citation : (1984) 03 P&H CK 0070

Hon'ble Judges : S.S.Dewan, J

Advocate : V.K. Jindal, H.S. Bedi, Advocates for appearing Parties

Judgement

S.S. Dewan, J.

1. At the outset Mr. V.K. Jindal, learned counsel for the petitioner, has strenuously urged that in spite "of the final order passed by this Court on September 19, 1983, the learned Chief Judicial Magistrate, Ferozepur, did not order the release of the petitioner on bail in the wake of the State Government not having passed a final order in the matter of premature release case of the petitioner. The learned State counsel has submitted that the State Government has passed an order in this matter and had rejected the case at the present stage. It is contended that the Government has deferred the matter for consideration for another six months. There is, however, no material on the record to ascertain as to what specific orders have been passed by the State Government. In any case, even if it is presumed that the State Government has passed an order by which it has dismissed the premature release case for the time being and has deferred it for six months, such an order does not tantamount to passing a final order in the case as was postulated in the order of this Court on September 19, 1983. In the said order it was clearly observed that if ultimately the authorities, i.e., the State Government decides to reject the premature release case, it will be open to the prisoner to challenge the order by an appropriate action. In the absence of any final order or rejection which has in any case not been conveyed nor a copy supplied to the petitioner, there is no opportunity, available to the petitioner to challenge such an order. I would

therefore, hold that an order of the nature as conveyed by the learned State counsel, to have been passed by the State Government, is not a final order which the State Government was required to pass. In view of this, the petitioner was entitled to pray for being released on bail and his prayer should have been allowed by the Chief Judicial Magistrate. The learned State counsel has, however submitted that another opportunity be afforded to the State Government to pass a proper final order in the case of the petitioner. The petitioner is stated to have already undergone a sentence of 15 years, 8 months and 6 days including the period of remission). In such a situation I find no justification for granting any further time to the State Government to pass an order, especially when the order of this Court dated September 19, 1983 was quite specific.

2. In the result this writ petition succeeds. The impugned order dated 23.12.1983 passed by the Chief Judicial Magistrate, Ferozepur declining bail to the petitioner is set aside. The petitioner is ordered to be released on bail to the satisfaction of Chief Judicial Magistrate, Ferozepur.