
(2018) 08 P&H CK 0384
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 8883 Of 2018

Sampuran Chand @ Kala

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 08-08-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 432, 433, 433(A)
Indian Penal Code, 1860 — Section 34, 302
Constitution of India, 1950 — Article 161

Citation : (2018) 08 P&H CK 0384

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Advocate : Deepshikha Chauhan, Sunint Kaur

Final Decision : Allowed

Judgement

The petitioner has prayed for his premature release on the basis of the Policy dated 8.7.1991 issued under Section 432, 433 and 433(A) of the Code of Criminal Procedure, 1973 [for short 'the Cr.P.C.'] and Article 161 of the Constitution of India.

In brief, the petitioner was admitted in the Central Jail, Amritsar as an under trial prisoner on 8.11.2017 in a case registered vide FIR No.160 dated 2.11.1997 under Sections 302, 34 IPC at P.S. Beas, District Amritsar and was sentenced to suffer Rigorous Imprisonment for life with fine of `2000/- and in default to further suffer Rigorous Imprisonment for 6 months by the Additional Sessions Judge, Amritsar on 16.5.2001.

The case of the premature release of the petitioner was initiated by the Superintendent Jail, Amritsar and was forwarded to the Additional Director General of Police (Jails) Punjab, Chandigarh as per the provisions of the Punjab Government Instructions dated 4.4.2013 but the department of

Home Affairs & Justice (Home -7, Branch), Punjab rejected the premature

release of the petitioner vide its order dated 17.7.2017 on the ground that

"with regard to premature release of the prisoner, the District Magistrate Jammu and Senior Superintendent of Police, Jammu have not recommended to release the prisoner on premature release and they have reported that in case the prisoner is released, then there can be breach in public law and order and the prisoner can again commit some offence". The case of the petitioner was thus rejected by the Chief Minister, Punjab.

Learned counsel for the petitioner has submitted that it is not disputed that as per the Jail Roll dated 30.7.2015, the petitioner has undergone 17 years 8 months and 20 days actual sentence and after adding remissions and deducting period of parole, he has undergone 24 years 11 months and 11 days whereas, according to the Policy dated 4.4.2013 he was supposed to undergo actual imprisonment of 14 years including remission period (less parole period). It is also submitted that even in the impugned order, it is mentioned that the petitioner has availed the parole of 9 months 10 days and furlough of 1 month and 19 days and remained peaceful and his conduct, as per jail record, has been found to be good. It is thus submitted that only because of the report of the District Magistrate, Jammu and Senior Superintendent of Police, Jammu, who have not recommended the release of the petitioner on the pretext that in case he would be released then there can be breach in public law and order and he can again commit some offence, is no ground to refuse the benefit of the policy to the petitioner for his premature release.

On the other hand, learned counsel for the respondents/State has only reiterated its stand mentioned in the impugned order.

I have heard learned counsel for the parties and perused the record. There is no denial to the effect that the petitioner has completed the requisite sentence for the purpose of seeking premature release which has been declined only on the ground of recommendations made by the District Magistrate, Jammu and Senior Superintendent of Police, Jammu about which nothing has been brought on record as to on what basis they have nursed this view against the petitioner that in case of his release there would be breach of public law and order and the he may commit some offence.

Thus in view thereof, the present petition is allowed and the impugned order is hereby set aside. The matter is remanded back to the respondents to reconsider the case of the petitioner and pass an appropriate order within a period of 3 months from the date of receipt of certified copy of this order.