

(1998) 11 P&H CK 0075

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 18802-M of 1998

Satvir Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 27-11-1998

Acts Referred:

Citation : (1999) 1 RCR(Criminal) 617

Hon'ble Judges : M.L.Singhal, J

Advocate : Anuradha Lamba, Kamini Bhanot, Advocates for appearing Parties

Judgement

M.L. Singhal, J.

1. This is Cri. Misc. No. 18802M of 1998 whereby Satbir Singh convict has prayed to this Court through jail for his premature release. It is stated that he is undergoing life imprisonment in District Jail, Rohtak. He has undergone 14 years 7 months sentence. Besides, he was availed remissions to the extent of 53 months. During his stay in jail, he has not committed any jail offence. He has not availed any parole or furlough so far. He has been continuously in jail ever since. In the month of September 1985, he began suffering from asthma and became disabled. He availed remissions on account of asthma. In the year 1995, his backbone became diseased. He suffered backache for 24 hours. In September, 1997, he became patient of TB. He is now suffering from asthma, backache and TB.

2. Ms. Kamini Bhanot, Advocate was appointed counsel for him to be paid by the Haryana Legal Aid Cell.

3. Respondents contested this prayer urging that he had earlier applied through Crl. Misc. No. 4721M of 1998 for premature release on the ground that he was a patient of asthma which was dismissed on 12.2.1992. He again filed Cri. Misc. 3630M of 1993 which was dismissed by this Court on 1.6.1993 with the observation that he has to undergo 14 years actual and also earn 6 years remissions to become eligible for his release. He filed Crl. Misc. No. 11568M of

1996 for premature release which was placed before the State level Committee in its meeting held on 5.11.1996 for consideration in pursuance of the order passed by this court therein. The Committee observed that this life convict committed rape on Maheshwari deceased, minor aged about 1011 years on 1.10.1982 at 2 or 2.30 PM in the fields. As per the report of the doctor, this life convict committed murder of the child by strangulating after the commission of rape. He was refused premature release as his case was falling with the ambit of para 2(a) of the government instructions dated 4.2.1993. Committee recommended that the case would be reconsidered after completion of 14 years actual sentence including under trial period and after earning at least 6 years remissions in the jail as required under aforesaid instructions. He is not due for premature release as he has to earn 6 years remissions which he has not earned so far. He has undergone 16 years 9 days actual sentence including under trial period and 20 years 5 months 14 days total sentence including under trial period plus remissions, minus parole as on 8.10.1998 but has not earned 6 years remissions as required under para 2(a) (ibid). He has earned 4 years, 5 months and 9 days remissions. It was denied that he had not availed any parole or furlough. He was given 4 days emergency parole from 5.4.1988 to 9.4.1988 by the Director General of Prisons, Haryana, camp at District Jail, Rohtak.

4. It was submitted by the learned Counsel for the petitioner that if the petitioner has served 14 years imprisonment, he cannot be denied release on the ground that he has not earned 6 years remissions when it was not the case of the State that he was intractably a savage delinquent. In support of this submission, she drew my attention to Surinder Kumar alias Chhinda v. State of Haryana, 1997(2) Recent Criminal Reports 413 . Petitioner has undergone 16 years 9 days actual sentence including under trial period and 20 years 5 months and 14 days total sentence including under trial period plus remissions minus parole as on 8.10.1998. According to the State, he should earn 6 years remissions before he can claim release. He was convicted and sentenced on account of rape cum murder of a minor girl. His case falls within the ambit of para 2(a) (ibid) of Government instructions date 4.2.1993. As per para 2(a) of the said instructions, he has to complete 14 years actual sentence including under trial period and earn at least 6 years remissions before he can claim premature release. In 1992(2) RCR 413 (supra), the petitioner was being deprived of premature release as he had committed a number of jail offences during his confinement in jail and further he had not earned 6 years remissions. Instructions dated 4.2.1993 were not the subject matter of consideration before His Lordship. In this case, we have to give effect to para 2(a) of the instructions dated 4.2.1993.

This Cri. Misc. petition fails and is dismissed.