
(2011) 03 P&H CK 0187

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. M-625 of 2011

Usman Khan

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 17-03-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 376

Citation : (2011) 03 P&H CK 0187

Hon'ble Judges : Nawab Singh, J

Bench : Single Bench

Judgement

Nawab Singh, J.—Usman Khan - Petitioner was convicted under Sections 302 and 376 of the Indian Penal Code by Sessions Judge, Ludhiana vide judgment dated April 1st, 2002 in case bearing First Information Report No. 36 dated April 27th, 1998, Police Station - Division No. 8, Ludhiana and sentenced to undergo imprisonment for life. He is confined in Borstal Jail, Ludhiana.

2. The Petitioner's case for premature release was dismissed by the State Government on the ground that District Magistrate, Ludhiana, reported as under:

This convict wants his premature release, but this convict has no permanent address that's why there is danger to law and order.

3. Petitioner belongs to District Gaunda (Uttar Pradesh). District Magistrate, Gaunda did not recommend the case of the Petitioner for premature release on the following ground that:

The convict has raped the baby and thereafter killed her by putting her on fire with kerosene oil which is a heinous crime. If the convict is prematurely released, wrong message will be sent to the society.

4. By filing the present petition, the Petitioner has urged that the ground on which his case was rejected is not cogent. Reliance has been placed upon (i). Bhagwant Saran and Ors. v. Stat of U.P. and Ors. 1983 (1) C.L.R. 504 and (ii).

Life Convict Laxman Naskar v. State of West Bengal 2000(4) R.C.R. 18.

5. In Bhagwant Saran's case (supra), 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.

6. In Laxman Naskar's case (supra), case for premature 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.

7. Petitioner has already undergone 21 years 9 months and 3 days of sentence including remissions, that is, 8 years as on January 31st, 2011 per reply filed by the State. The Petitioner has already completed the sentence as per Policy of the State Government dated July 8th, 1991 (Annexure P/1) as mentioned in the order dated October 27th, 2010 (Annexure R/3).

8. Above being the legal and factual position, the State Government 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 undergone actual sentence of more than 21 years 9 months and 3 days of sentence including remissions.

9. For the reasons aforesaid, it is ordered that till the case for pre-mature release of the Petitioner is decided by the Respondent-State, he shall be released on parole on his furnishing personal bond and a surety bond to the satisfaction of District Magistrate, Ludhiana. 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 while on parole.

10. Disposed of.