

(2007) 01 P&H CK 0151

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 34087 of 2004

Vijay Kumar

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Jan. 10, 2007

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Penal Code, 1860 (IPC) - Section 302

Citation: (2007) 3 RCR(Criminal) 707

Hon'ble Judges: Surya Kant, J

Bench: Single Bench

Advocate: Sarla Chaudhary, for the Appellant; B.S. Bath, Assistant Advocate General, Punjab, for the Respondent

Final Decision: Allowed

Judgement

Surya Kant, J.

In this petition u/s 482 Cr.P.C., the Petitioner seeks a direction to the Respondents for his premature release.

2. The Petitioner was convicted and sentenced to undergo life imprisonment u/s 302 IPC in a case arising out of FIR No. 114 dated 28.10.1993, P.S. City Moga. According to the Petitioner, he has undergone actual sentence of 10 years 8 months and 26 days and has earned remissions for a period of 8 years 6 months. The Petitioner has also availed parole for a total duration of 1 year 1 month and 14 days.

Relying upon the policy for grant of remissions of sentences of life imprisonment issued by the Government of Punjab on 8th July, 1991 (Annexure P1), followed by subsequent policies on the same subject dated 24th January, 1994 and 6th March, 1995, it is contended on behalf of the Petitioner that upon completion of 10 years of actual sentence along with 4 years remissions, i.e. total 14 years period, the Petitioner is entitled to be released from jail.

3. The jail authorities, however, have not recommended the Petitioner's case for premature release on the ground that on receipt of a secret information the Petitioner was subjected to search upon which intoxicating capsules and slips of Rs. 1050/- in the name of different persons were recovered from him on 28.12.2002 and, thus, the Petitioner was found guilty of committing a jail offence. It is also the case of the Respondents that due to the aforesaid offence, the Petitioner's 10 days remission was deducted from his earned remissions which was approved by the District & Sessions Judge, Ferozepur. On this premise, it is contended by the Respondents that since the Petitioner has failed to maintain good conduct in jail and has rather committed a "jail offence" within a period of 5 years immediate preceding the date his case could be considered for premature release, he is ineligible to take advantage of the government policy dated 8th July, 1991, as provided in Para B(II) thereof.

4. It is not disputed that after the Policy decision dated 8th July, 1991, the State of Punjab has also issued Policy Circulars dated 24th January, 1994 and 6th March, 1995.

5. In order to appreciate the stand taken by the Respondents, it will be profitable to refer to Para B(II) of the Policy dated 8th July, 1991, which reads as follows:

The cases of premature release will only be considered provided the convict has maintained good conduct in jail. For this purpose good conduct means that he has not committed any jail offence for a period of 5 years prior to the date of his eligibility for consideration for release as per para 1.1 above.

At this stage, it would also be relevant to refer to the relevant clause incorporated in the latter policy, dated 6th March, 1995 which reads as follows:

"Provided that, he has throughout maintained good conduct in jail and has not committed any major offence within the past three years or been involved in any crime either inside the jail or outside, while on parole or furlough or bail etc."

On a plain reading of the above reproduced clause in the latter Policy, it is apparent that the State Government itself has taken a conscious decision that every type of jail offence, howsoever petty it may be, should not come in the way of extending the benefit of its policy on premature release. The latter Policy clearly provides that only if a prisoner has committed "any major offence" and that too within the past three years, would be denied the benefit thereof.

6. If the magnitude of the alleged offence committed by the Petitioner on 28.12.2002 is considered in the light of the tone and tenor of the latter policy, it is difficult to accept that the Petitioner have committed a "major offence" while in prison. Similarly, a period of more than 3 years has expired thereafter.

7. In the light of these observations, I am of the considered view that the Respondents need to reconsider the Petitioner's case for his premature release in

the light of the government policy dated 8th July, 1991 coupled with the subsequent policies and if found eligible, to recommend the same.

Consequently, this petition is allowed with a direction to the Superintendent, Central Jail, Ferozepur and the Inspector General (Prisons), Punjab, whosoever is the competent authority, to take an appropriate decision in the matter within a period of two months from the date of receipt of a certified copy of this order.