
**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Criminal Misc. No.M-34407 of 2008

Date of decision : 24.12.2008

Sita Ram

....Petitioner

Versus

State of Haryana etc.

...Respondents

CORAM : HON'BLE MR. JUSTICE S. D. ANAND

Present: Mr. S.S.Rana, Advocate for the petitioner

S. D. ANAND, J.

Criminal Misc. No.60539 of 2008

Allowed as prayed for.

Criminal Misc. No.M-34407 of 2008

Notice of motion.

On the asking of the Court, Mr.S.S.Mor, learned Senior Deputy Advocate General, Haryana accepts notice on behalf of the respondents.

The petitioner is undergoing life imprisonment following his conviction by the learned Trial Judge on 26.2.1996 in case FIR No. 658 dated 10.11.1993 registered at Police Station city, Hisar under Sections 302, 34 IPC.

In view of the averment made in the course of the petition, learned State counsel states that the competent authority shall dispose of the premature release plea of the petitioner-prisoner in the light of the Apex Court judgment in **State of Haryana Vs. Mahender Singh and others 2007 (4) RCR (Criminal) 909** and a Division Bench judgment of this Court in Crl. Misc. No.12868-M of 2003 (**Jiya Lal Vs. State of Haryana and others**) within two months from today.

There is no controversy otherwise that a review plea filed by the State of Haryana in Mahender Singh's case (supra) has been dismissed by the Apex Court.

In Mahender Singh's case, the Apex Court had held that the policy in currency on the date of conviction of a prisoner would govern consideration of a premature release plea. The petitioner before this Court having been convicted on 26.2.1996, his case has to be governed by the policy which was in force on the date of the conviction.

On ascertainment of the correctness of the averment made by the petitioner qua the period of actual sentence undergone by him, the Superintendent of the Jail concerned (where the petitioner is presently lodged), shall unconditionally release him forthwith. This order shall be FAXED to the Superintendent Jail concerned.

In order to avoid any ambiguity, it is made clear that the petitioner shall be unconditionally released only if the Superintendent of Jail concerned finds that the petitioner-prisoner has indeed undergone the actual period of sentence which he was required to undergo under the policy in currency on the date of the conviction.

The petition shall stand disposed of accordingly. The competent authority is directed to dispose of the premature release plea of the petitioner-prisoner in the light of the Apex Court judgment in **State of Haryana Vs. Mahender Singh and others 2007 (4) RCR (Criminal) 909** and a Division Bench judgment of this Court in Crl. Misc. No.12868-M of 2003 (**Jiya Lal Vs. State of Haryana and others**) within two months from today. It will be for the State counsel to communicate the order to the competent authority.

Copy of the order be given to the learned State counsel under the signatures of the Court Secretary.

Copy of this order be given dasti to the learned counsel for the petitioner on payment of usual charges.

December 24, 2008
Pka

(S.D. ANAND)
JUDGE