



CRWP-8482-2025 (O&M)

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

CRWP-8482-2025 (O&M)
Reserved on : 10.07.2026
Decided on : 31.08.2026

Arun Kumar

..... Petitioner

VERSUS

State of Punjab & Ors.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Ms. Gagandeep Kaur, Legal Aid Counsel for the petitioner.

Mr. Jasdev Singh Thind, DAG Punjab.

SURYA PARTAP SINGH, J.

This is a writ petition filed by the petitioner for issuance of writ in the nature of mandamus, challenging the order dated 23.12.2024, hereinafter being referred to as 'impugned order'. The abovementioned order has been passed by the respondent No.1. By virtue of impugned order, premature release of the petitioner has been refused.

2. In nut-shell, the facts emerging from record are that in a case arising out of FIR No.11 dated 06.02.2005, Police Station Goraya, District Jalandhar, for the commission of offence punishable under Section 302 of Indian Penal Code, the petitioner faced trial in the Court of learned Additional Sessions Judge, Jalandhar, hereinafter being referred to as 'trial

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Court' only. The abovementioned trial, by virtue of judgment dated 07.02.2007, culminated into conviction of petitioner and by virtue of abovementioned judgment, the petitioner was sentenced to undergo sentence of life imprisonment. In addition to above, the fine of Rs.10,000/- was also imposed upon the petitioner.

3. Aggrieved of the abovementioned judgment, passed by the learned trial Court, the petitioner preferred an appeal before this Court. However, the appeal, preferred by the petitioner, did not find favour in this Court and the same was dismissed, by virtue of judgment dated 23.10.2010. Thus, the verdict of conviction, vis-à-vis sentence, against the petitioner, stands upheld by this Court.

4. It is claim of the petitioner that in view of relevant policy, applicable to him, he is entitled to premature release, but the competent authority vide its order dated 23.12.2024, i.e. the impugned order, has observed that the petitioner is not entitled to the benefit of premature release.

5. It has been alleged by the petitioner that the judgment of conviction passed by the learned trial Court came into being, against him, on 07.02.2007, and that at that point of time, the premature release policy dated 08.07.1991, hereinafter being referred to as 'policy' only, was in force. According to petitioner, the abovementioned policy prescribed that a convict, who has undergone 14 years of actual imprisonment and 20 years of total imprisonment, including remission, was entitled for premature release.

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As per claim of the petitioner, against the prescribed period of 14 years, he has undergone actual imprisonment for a period of 21 years and against the prescribed period of 20 years (including remission), he has undergone imprisonment for more than 25 years (including remission). While claiming that under the policy, he is eligible for premature release, it has been pleaded by the petitioner that the competent authority, by virtue of impugned order, has wrongly denied the benefit of premature release to the petitioner. Hence the present petition.

6. Heard.

7. While assailing the impugned order, it has been contended by learned counsel for the petitioner that in the present case, there is no denial of this fact that the petitioner has been found guilty for the commission of offence punishable under Section 302 IPC, and that the sentence awarded to the petitioner is imprisonment for life. According to learned counsel for the petitioner, it is also an admitted fact that in the present case, the verdict dated 07.02.2007, passed by the learned trial Court, has been upheld by this Court, by virtue of judgment dated 23.10.2010, and thus, the judgment of conviction as well as order on quantum of sentence, qua petitioner, have become finality.

8. It has been further contended by learned counsel for the petitioner that the total period of imprisonment already undergone by the petitioner, as an undertrial, and as a convict, is much above the prescribed

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norms and therefore, on the ground of length of imprisonment, the period of sentence already undergone by the petitioner qualifies the norms prescribed under the policy dated 08.07.1991.

9. The learned counsel for the petitioner has further contended that with regard to premature release of petitioner, the order dated 23.12.2024, i.e. the impugned order, has been passed. According to learned counsel for the petitioner, although in the impugned order, there is reference of policy dated 08.07.1991, but the relevant clauses of the abovementioned policy, which are applicable to the case of petitioner, have not been followed. As per learned counsel for the petitioner, in the impugned order, there is reference of an objection raised by the concerned authorities, with regard to conduct of the petitioner, during the course of his imprisonment. According to learned counsel for the petitioner, in the impugned order, it has been mentioned that the conduct of the petitioner was not satisfactory inside the jail, and that he had failed to show any sign of reformation.

10. With regard to above, it has been contended by learned counsel for the petitioner that the abovementioned observations, recorded in the impugned order, are factually wrong, and that the record prepared by the jail authorities itself belies the abovementioned claim of the respondents.

11. With regard to above, it has been contended by learned counsel for the petitioner that awarding of sentence is sole prerogative of the Court and it is for the Court only to decide what type of sentence has to be

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awarded to a convict. As per learned counsel for the petitioner, the competent authority while dealing with a case for premature release has no jurisdiction at all either to enlarge the sentence awarded to a convict by a Court, or to reduce it. As per learned counsel for the petitioner, the only jurisdiction vested in the competent authority is to decide as to whether the case of the convict comes within the parameters prescribed under the policy or not.

12. In support of his abovementioned arguments, the learned counsel for the petitioner has placed reliance upon the principles propounded by the Hon'ble Supreme Court in the cases of 'Home Secretary (Prison) & Ors. V/s H. Nilofer Nisha', 2020 (14) SCC 161, 'Rajkumar V/s The State of Uttar Pradesh' 2024 (9) SCC 598, 'Rashidul Jafar @Chota V/s State of Uttar Pradesh & Anr.' 2022 (8) SCR 475, 'State of Haryana & Ors. V/s Jagdish', AIR 2010 SC 1690 and by this Court in the cases of 'Gurbax Singh V/s State of Haryana', 1994 (3) RCR (Criminal) 342 and 'Kamal Kant Tiwari V/s State of Punjab & Ors.', 2014(2) RCR (Criminal) 940.

13. *Per contra*, the learned State Counsel, while representing all the respondents, and defending the impugned order, has contended that first and foremost fact to be taken into consideration, while considering the right of a convict for premature release, is that the premature release is a concession accorded by the State Government and a convict, who is guilty of commission of heinous crime, cannot claim it as a matter of right. The learned State Counsel has further contended that the impugned order in itself

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makes it abundantly clear that the right policy, and a right standard, was applied, while passing the impugned order, i.e. the policy for premature release dated 08.07.1991. As per learned State Counsel, the decision has been taken strictly in accordance with the contents of abovementioned policy and therefore, the petitioner cannot claim any right beyond the scope of abovesaid policy.

14. During the course of arguments, the learned State Counsel has highlighted this fact that the petitioner is a person, who did not show any sign of reformation or remorse, and that the custody certificate of the petitioner shows that he committed a default in the past. As per learned State Counsel, the petitioner was released on four weeks' parole on 09.05.2012, and he had to surrender on 07.06.2012, but the petitioner surrendered on 24.07.2012 and absconded for 47 days. According to learned State Counsel, thereafter complaint No.30 dated 15.02.2013, under Section 8/9 of Punjab Good Conduct Temporary Release Act, 1962 was filed against the petitioner and he was convicted by the Court of learned Chief Judicial Magistrate Ludhiana on 30.05.2013. The learned State Counsel has contended that in the abovementioned case, a sentence to undergo rigorous imprisonment for three months was awarded to the petitioner. According to learned State Counsel in the given fact situation, particularly in view of past conduct of the petitioner, this plea that his case for premature release has been wrongly declined, is not sustainable.

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15. In addition to above, the learned State Counsel has also contended that on 21.06.2017, the petitioner misbehaved with the jail Medical Officer, abused him, threatened him, attempted to commit suicide, broke the glass of main gate of the jail hospital and obstructed the officials from discharging their duties, for which a case No.251 dated 12.09.2017 under Sections 323, 324, 506, 148, 149, 353, 186 IPC was registered in Police Station Division No.7, Ludhiana. As per learned State Counsel, in the abovementioned case, the petitioner was convicted by the Court of learned Judicial Magistrate First Class Ludhiana on 09.11.2021.

16. The learned State Counsel has further contended that in order to assess as to whether the crime committed by the petitioner is heinous in nature, it was necessary for the competent authority to look into the background in which the offence was committed, the manner of commission of offence and also the material placed before the Court with regard to commission of offence, exposing the mindset of the petitioner at the time of commission of offence.

17. In view of abovementioned arguments, it has been contended by learned State Counsel that there is no illegality or perversity in the impugned order, and therefore, there is no scope of indulgence or interference in the abovementioned order. While claiming that the present petition has got no merit, the learned State Counsel urged for dismissal of the same.

18. The record has been perused carefully.

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19. As far as the instant case is concerned, at the very outset, it is relevant to mention here that with regard to certain facts, pleaded by the petitioner, there is no dispute. Those facts may be summarized as under:-

- i. that the petitioner faced trial for the commission of offence punishable under Section 302 IPC, vide FIR No.11 dated 06.02.2005, Police Station Goraya, Jalandhar;
- ii. that the abovementioned trial was conducted by the Court of learned Additional Sessions Judge Jalandhar and culminated into conviction of the petitioner vide judgment dated 07.02.2007;
- iii. that by virtue of order dated 07.02.2007 on the point of quantum of sentence, the petitioner was awarded sentence for life imprisonment and to pay a fine of Rs.10,000/-;
- iv. that the abovementioned verdict has been upheld by this Court, as the appeal preferred by the petitioner has been dismissed on 23.10.2010;
- v. that with regard to abovementioned judgment of conviction and order on the point of quantum of sentence, as per custody certificate placed on record by the respondent-State, the petitioner has already served sentence equivalent to actual imprisonment for a period of 21 years and total imprisonment, including remission, for a period of 25 years;
- vi. that as per order conveyed by Additional Chief Secretary, Punjab Government Jail Department, dated 23.12.2024, i.e. the impugned order, the proposal of early release of petitioner has been declined by the competent authority; and

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vii. that the verdict of conviction being in the year 2007, the policy adopted by the Government of Punjab dated 08.07.1991, is applicable to the case of petitioner.

20. In the light of abovementioned admitted facts, now it has to be determined as to whether as per applicable policy, the petitioner is entitled to be released from custody or not.

21. With regard to above, it is relevant to note here that the policy for premature release of prisoner has already been implemented by the Government of Punjab. With regard to abovementioned policy, it is relevant to note here that the same is binding upon the respondents. In this regard, in the case of Rajkumar (*supra*), the Hon'ble Supreme Court of India has observed that *'the State having formulated Rules and a standing Policy for deciding cases of premature release, it is bound by its own formulations of law. Since there are legal provisions, which hold the field, it is not open to the State to adopt an arbitrary yardstick for picking up cases for premature release. It must strictly abide by the terms of its policies bearing in mind the fundamental principle of law that each case for premature release has to be decided on the basis of the legal position as it stands on the date of the conviction subject to a more beneficial regime being provided in terms of a subsequent policy determination. The provisions of law must be applied equally to all persons: Moreover, those provisions have to be applied efficiently and transparently so as to obviate the grievance that the policy is being applied unevenly to similarly circumstanced persons. An arbitrary method adopted by the State is liable to grave abuse and is liable to lead to*

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a situation where persons lacking resources, education and awareness suffer the most’.

22. Similarly in the case of Rashidul Jafar @Chota (*supra*), the Hon’ble Supreme Court of India has observed that *‘the implementation of the policy for premature release has to be carried out in an objective and transparent manner as otherwise it would impinge on the constitutional guarantees under Articles 14 and 21. Many of these life convicts who have suffered long years of incarceration have few or no resources. Lack of literacy, education and social support structures impede their right to access legal remedies. Once the state has formulated its policy defining the terms for premature release, due consideration in terms of the policy must be given to all eligible convicts. The constitutional guarantees against arbitrary treatment and of the right to secure life and personal liberty must not be foreclosed by an unfair process of considering applications for premature release in terms of the policy’.*

23. As far as the policy dated 08.07.1991, applicable to the case of petitioner, is concerned, Clause-A(vii) provides that the offence under Section 302 IPC, where the victim is a child under the age of 14 years, comes within the ambit of ‘heinous crime’. There is no dispute qua the case in hand that the allegation against the petitioner was for the commission of a murder of four-year-old child. Thus, there cannot be any quarrel that the offence committed by the petitioner comes within the ambit of ‘heinous crime’.

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24. As per Clause 3 of the abovementioned policy, following is the relevant standard, which is supposed to be qualified, by a convict before being eligible for premature release:-

	Convicts who have been imprisoned for life for offences for which death is a punishment and have committed heinous crime	
	Actual imprisonment	Imprisonment with remission
Adults	14	20

25. The abovementioned policy further provides that:-

II. 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.I above.

III. Cases for premature release will only be considered if the Government is satisfied that in the event of release of the convict there is no likelihood of the convict committed a crime or breach of peace.

IV. The Government reserves the right to exercise its powers under Article 161 of the Constitution in any way it deems fit.

26. If the abovementioned standard enshrined in the policy is taken into consideration, it leads to the conclusion that the petitioner has already served an actual sentence for a period of more than 21 years and total sentence for a period of more than 25 years. Thus, he qualifies the abovementioned parameters.

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27. In the present case, it is also relevant to mention here that the competent authority while passing the impugned order, and taking a decision with regard to premature release of the petitioner, has recorded several observations. The relevant extract of the same is as under:-

‘The proposal of early release of prisoner Arun Kumar S/o Rajinder Pal, Central Jail Ludhiana was sent by the Additional Director General of Police (Prisons), Punjab with objections. The Presiding Judge has opposed the early release of the prisoner and the committee constituted to examine the early release cases of life prisoners has also opposed the early release of life prisoners.’

28. Here this fact cannot be ignored that in addition to present case, the petitioner has also been prosecuted for two other offences, one offence was under Section 8/9 of the Punjab Good Conduct Temporary Release Act, 1962. In the abovementioned case, the petitioner was held guilty and sentenced to undergo rigorous imprisonment for a period of three months. The abovementioned verdict came in the year 2013.

29. The second case was with regard to commission of offence under Sections 323, 324, 506, 148, 149, 353, 186 IPC, vide FIR No.251 dated 12.09.2017. In the abovementioned case, the petitioner has been sentenced to undergo imprisonment for the period already undergone in the abovementioned case. The abovementioned verdict came on 09.11.2021, i.e. almost five years ago. Thus, the abovementioned two verdicts cannot have any impact on premature release of the petitioner.

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30. With regard to similar situation, the Hon'ble Supreme Court of India in the case of State of Haryana & Ors. V/s Jagdish, AIR 2010 SC 1690, has observed that 'at the time of considering the case of pre-mature release of a life convict, the authorities may require to consider his case mainly taking into consideration:-

- Whether the offence was an individual act of crime without affecting the society at large;
- Whether there was any chance of future recurrence of committing a crime;
- Whether the convict had lost his potentiality in committing the crime;
- Whether there was any fruitful purpose of confining the convict any more;
- The socio-economic condition of the convict's family and
- Other similar circumstances'.

31. In the case of Gurbax Singh (*supra*), this Court has observed that 'it can hardly be doubted that in every murder there is an element of brutality and murder in itself is a heinous crime but if the State Government itself has chosen to classify murder in different ways for the purpose of premature release, it is bound by its instructions and they must be followed. It will be seen that paragraph 2(a) deals with a situation where the murder is motivated by lust, greed or avarice, that are the cases of human instincts, or where it has been exceptionally brutal in its execution'.

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32. The Hon'ble Supreme Court of India in the case of 'Karamjit Singh V/s State (Delhi Admn.) made the following observations:

"Punishment in criminal cases is both punitive and reformative. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformative aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a criminal case, the court has to weigh the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is, what is needed in such a case; a balance between the interest of the individual and the concern of the society; weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be underminal. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead the life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law."



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33. In the case of Rajendra Pralhadrao Wasnik (*supra*), the Hon'ble Supreme Court of India has observed that '*the process of rehabilitation is also not a simple one since it involves social reintegration of the convict into society. Of course, notwithstanding any information made available and its analysis by experts coupled with the evidence on record, there could be instances where the social reintegration of the convict may not be possible. If that should happen, the option of a long duration of imprisonment is permissible*'.

34. If the facts and circumstances of the case are analyzed in the light of the principles of law, enumerated above, it transpires that firstly the impugned order is not a speaking order, as the grounds for rejection of request of petitioner for premature release have not been properly explained; and secondly, the grounds for not releasing the petitioner on premature release appear to be contrary to the policy in question. Thus, it is hereby observed that the impugned order is patently perverse, illegal, unsustainable in the eyes of law, and therefore, the same deserves to be set aside.

35. As a sequel to abovementioned observations, the present petition is hereby ***allowed*** and the impugned order is hereby set aside with a direction to the respondents/authorities to consider the case of premature release of petition strictly in view of policy dated 08.07.1991 as well as the observations recorded, in the foregoing paragraphs of this judgment, within a period of two months from the date of receipt of copy of this order.

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36. It is further directed that till the decision is taken by the competent authority regarding premature release of the petitioner as per this order, the petitioner be released on interim bail on furnishing requisite bail bonds to the satisfaction of learned Chief Judicial Magistrate Jalandhar. In case, after reconsideration the request for premature release is declined again, the petitioner would surrender before the jail authorities.

37. Pending miscellaneous application(s), if any, shall stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

31.08.2026*Gaurav Thakur*

Whether speaking / reasoned
Whether Reportable

Yes/No
Yes/No