IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRWP-10284-2024 (O&M)
Reserved on : 21.11.2025
Decided on : 09.12.2025

Sonia

..... Petitioner

VERSUS

State of Haryana & Ors.

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Argued by : Mr. Sahil Choudhary, Advocate for the petitioner.

Mr. Arun Kumar Gujjar, AAG Haryana.

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SURYA PARTAP SINGH, J.

1. A direction to the respondents in the form of a writ in the nature of mandamus, has been sought by the petitioner and a prayer has been made that the order dated 07.08.2023, passed by the respondent No.1, hereinafter being referred to as 'impugned order' only, whereby prayer for premature release of the petitioner has been rejected, be quashed.

2. The pith and substance of the factual matrix emerging from record is that the petitioner was sent to stand trial by SHO Police Station Uklana, for the commission of offence punishable under Sections 302, 120B and 34 of Indian Penal Code and Section 25 & 27 of Arms Act. The abovementioned trial culminated into conviction of the petitioner by virtue

of judgment dated 27.05.2004. As a result of abovementioned verdict, after hearing the petitioner on the point of quantum of sentence, vide order dated 31.05.2004, she along with her co-accused was awarded death penalty. When the abovementioned sentence was awarded to the petitioner, a reference was made by the learned Court of Sessions to this Court, for confirmation of sentence, whereas the petitioner and the co-convict filed a criminal appeal. The abovementioned proceedings were decided by this Court on 12.04.2005 and by virtue of judgment dated 12.04.2005, the murder reference was declined and the sentence awarded to the petitioner was commuted into life imprisonment.

3. Against the judgment of this Court dated 12.04.2005, three appeals were filed before the Hon'ble Supreme Court of India, i.e. one appeal by the State of Haryana, second appeal by complainant-Ram Singh and third one by both the convicts (including petitioner). The abovementioned three appeals were decided by the Hon'ble Supreme Court of India by virtue of judgment dated 12.02.2007 and vide abovementioned judgment, the Hon'ble Supreme Court of India upheld the judgment of conviction passed by the learned trial Court. However, by reversing the finding recorded by this Court, converted the sentence of life imprisonment into death sentence. Against the abovementioned judgment dated 15.02.2007, the review petition was preferred by the petitioner and co-convict, but the abovementioned review petition did not find favour before the Hon'ble Supreme Court of India, and on 23.08.2007 the same was

dismissed. Even the mercy petition came to be dismissed by Hon'ble Governor on 23.10.2007 and subsequent mercy petition under Article 72 of the Constitution of India by his Excellency the President of India, vide order dated 05.07.2013.

4. It is relevant to mention here that after the rejection of mercy petition, a writ petition was filed by the present petitioner and in the abovementioned writ petition, vide judgment dated 21.01.2014, the Hon'ble Supreme Court of India commuted the death sentence awarded to the petitioner into a sentence for life imprisonment.

5. In the present petition, it has been pleaded by the petitioner that her conviction by the learned trial Court came into being on 31.05.2004, and that at that point of time, the premature release policy dated 12.04.2002, hereinafter being referred to as the 'policy' only, was applicable for the convicts. According to petitioner, with regard to commission of heinous offence, the convicts, whose death sentence was commuted to life imprisonment, were entitled to be considered for premature release on completion of 20 years of actual sentence and 25 years of total sentence with remission. While referring to abovementioned policy, the petitioner has alleged that she has already undergone actual sentence of more than 21 years and total sentence with remission of more than 26 years and 09 months.

6. As per petitioner, according to abovementioned policy, she is entitled for premature release and that as per policy, the matter with regard

to premature release of petitioner was required to be placed before the Hon'ble Governor for orders under Article 161 of the Constitution of India, and that the abovementioned order, i.e. the impugned order dated 06.08.2024 has been conveyed by the then Additional Chief Secretary to Government of Haryana on the recommendation of State Level Committee. According to petitioner, the case of petitioner for premature release has been rejected with a further direction that she shall remain in jail till her last breathe.

7. Aggrieved of the abovementioned order, it has been pleaded by the petitioner that the impugned order has been passed in utter violation of the applicable policy, i.e. premature release policy dated 12.04.2002, and the relevant laws propounded by the Hon'ble Supreme Court of India, vis-à-vis this Court, on various occasions. Hence, the present petition.

8. Heard.

9. While assailing the impugned order, the learned counsel for the petitioner has contended that there is no denial of this fact that the total period of actual sentence, undergone by the petitioner as per custody certificate placed on record by the respondents-State, is more than 23 years and 10 months and the total custody period, including remission, of more than 28 years and 10 months.

10. According to learned counsel for the petitioner, once the abovementioned policy is applicable to the petitioner, she has a right to be

released from custody. In this regard, the learned counsel for the petitioner has referred to the law propounded by Hon'ble Supreme Court of India in the case of 'Maru Ram V/s Union of India' 1981(1) SCC 107. The learned counsel for the petitioner while referring to the contents of impugned order has further contended that the State Level Committee considered the case of petitioner for remission, when the actual sentence and total sentence undergone by the petitioner were as under:-

	Years	**Months**	**Days**
Actual sentence	21	09	00
Total sentence	25	07	03

11. According to learned counsel for the petitioner, although in the impugned order it has been observed that the policy of premature release dated 12.04.2002 is applicable in the instant case, yet, while referring to seventeen jail offences committed by the petitioner, it has been observed that the conduct of the petitioner was not satisfactory inside the jail, and that the petitioner had not shown any sign of reformation.

12. The learned counsel for the petitioner has further contended that the impugned order is defective in view of the fact that one of the grounds for declining the benefit of premature release to the petitioner has been that the death sentence awarded to the petitioner was converted to life imprisonment not on merit, but because the same was converted on the ground of delay in deciding the mercy petition. According to learned counsel for the petitioner, once a verdict has been rendered by the Hon'ble Supreme

Court of India, the State Level Committee was not competent to comment on the background in which the commutation of death sentence had taken place. According to learned counsel for the petitioner, the abovementioned reference in the order is not only unwarranted, but illegal also, as the State Level Committee has tried to interpret the verdict of Hon'ble Supreme Court of India, for which it had not authority/jurisdiction.

13. It has been further contended by learned counsel for the petitioner that the impugned order is defective in view of this fact also that not only the background in which the commutation of death sentence had taken place, has been commented upon, but also the contents of evidence. With regard to above, the learned counsel for the petitioner has specifically referred to the contents of impugned order, wherein it has been mentioned that there was a judicial confession and suicide note with regard to involvement of petitioner in the commission of crime. As per learned counsel for the petitioner, it has also been observed that the abovementioned act of the petitioner showed that the murders were meticulously executed by the petitioner while having even the future plans in mind. According to learned counsel for the petitioner, all the abovementioned aspects have already been considered by the learned trial Court, vis-à-vis this Court, and that once the death sentence has been commuted by the Hon'ble Supreme Court of India, the State Level Committee has got no right to discuss the evidence placed before the Court, and then arrived at a conclusion with

regard to quality of evidence placed before the Court during the course of trial.

14. In addition to above, it has also been contended by learned counsel for the petitioner that the competent authority while passing the impugned order has also transgressed into the jurisdiction of the Court while passing an order to the effect that the petitioner shall remain in jail till her last breathe. With regard to above, it has been contended by learned counsel for the petitioner that awarding of sentence is the sole prerogative of the Court and it is for the Court only to decide what type of sentence has to be 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.

15. 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. In support of his arguments, the learned counsel for the petitioner has relied upon the principle 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.

16. *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 makes it abundantly clear that a right policy was applied while passing the impugned order, i.e. the policy for premature release dated 12.04.2002, and that decision in the impugned order has been taken strictly in accordance with the contents of abovementioned policy. According to learned State Counsel since the case of the petitioner does not comply with the parameters prescribed under the abovementioned policy, her request for premature release was bound to be declined, and that the competent authority, by virtue of impugned order, has taken a right decision.

17. During the course of arguments, the learned State Counsel has highlighted the fact that the petitioner is a person, who did not show any sign of reformation or remorse, and that the impugned order itself shows that she committed seventeen misconduct/jail offences during her custody period. As per learned State Counsel, even the opinion of the successor Court of learned trial Court was obtained with regard to desirability of petitioner for

premature release, and that the learned Presiding Officer on 06.05.2024 had opined against the petitioner. As per learned State Counsel, it is not the sole opinion of the State Level Committee, which has considered the misconduct of the petitioner to be grave enough to deny the right of premature release, but also the learned trial Court. According to learned State Counsel in the given fact situation, this plea of the petitioner that her case for premature release has been wrongly declined, is not sustainable.

18. In addition to above, the learned State Counsel has also contended that in the impugned order, the reference of writ petition, filed before the Hon'ble Supreme Court of India on the ground of delay in deciding the mercy petition, and the discussion of evidence which was placed before the learned trial Court, finds mention because the competent authority while passing the impugned order had applied its mind not only with regard to the parameters enshrined under the abovementioned policy, but also with regard to background in which the crime was committed. As per learned State Counsel 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 material placed before the Court with regard to commission of offence exposing the mindset of the petitioner at the time of commission of offence.

19. 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, scope is there for 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 present petition. In support of his arguments, the learned State Counsel has relied upon the principles of law laid down by the Hon'ble Supreme Court of India in the case of 'Rajendra Pralhadrao Wasnik V/s State of Maharashtra', (2019) 12 SCC 460.

20. The record has been perused carefully.

21. As far as the instant case is concerned, with regard to period of sentence already undergone by the petitioner, Clause 2(aa), 2(iii), 2(a)(vii) and 2(a)(viii) are relevant, which are reproduced below:-

2(aa)	Convicts whose death sentence has been commuted to life imprisonment and convicts who have been imprisoned for life having committed a heinous crime such as:-	Their cases may be considered after completion of 20 years actual sentence and 25 years total sentence with remissions.
2(iii)	Murder of more than two persons	
2(a)(vii)	Murder of a child under the age of 14 years.	Their cases may be considered after completion of 14 years actual sentence including undertrial period provided that the total period of such sentence including remissions is not less than 20 years.
2(a)(viii)	Murder of a woman	

22. If the abovementioned standard enshrined in the policy is taken into consideration, it leads to the conclusion that the petitioner, who had already served an actual sentence for a period of more than 20 years and

total sentence for a period of more than 25 years, duly complies with the abovementioned parameters.

23. In the present case, at the very outset it is relevant to mention here that the competent authority, while taking a decision with regard to the case of petitioner for premature release, has observed that following seventeen jail offences have been committed by the petitioner during her confinement in the jail, in addition to four other criminal cases:-

> "(i) On 04.01.2004 night, the female convict Sonia reported to be sick, Jail Medical Officer was called an checked her. The jail Medical officer gave her medical aid in spite of this the said female convict reported again and again and started crying by heating her head on the wall as well as making scar on his body and saying that want to kill myself. The ticket of said female convict produced before the Superintendent of jail, Ambala and the Superintendent advised to deal her tactfully. The female warder and the matron put on duty on her cell should always remain careful.
>
> (ii) On 02.01.2005, the female convict again reported to be sick. She reported several time to be sick during day time and night hours to put pressure on the jail administration. She wanted to take sedative injection by making pretext of illness. The Superintendent jail, Ambala advise to strict watch the female convict and get her check up from a psychiatric.
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> (iii) On 09.02.2005 the said female convict Sonia spread a gossip of having mercury with her. Her cell was searched but in vain. This female convict misleaded the jail administration by spreading gossips and threaten the female warder on duty. The

then Superintendent jail, Ambala directed to get search the cell, the said female convict minutely and checked her from medical officer jail.

(iv) On 10:02.2005 when a surprised check was to be carried out in the cell of the female convict Sonia, She refused to get her cell searched and threaten to the jail Administration to see and get killed all one by one. Her main motto was to put the jail Administration in difficulty. The Superintendent jail, Ambala advised the then Jail Deputy Superintendent to supply her religious book to read and do Yoga.

(v) On 14.01.2009 the said female convict alongwith two other undertrial prisoners quarreled with other co-prisoners. The female warder on duty and other female prisoners separated them. The female convict produced before the Deputy Superintendent Jail, Ambala and he was directed her to maintain peace and harmony in the jail.

(vi) On 20.06.2009, the said female convict cut all the hairs of her head and crying and saying to jail administration, she what happen in future. This female convict is dangerous and always trying to put Jail administration in a fix. The then Superintendent jail, Ambala directed to written this information to the Director General of Prisons Haryana as well as learned District and Sessions Judge, Ambala.

(vii) On 06.07.2010 the said female convict was crying to get herself transferred to any other Jail due to the water in to the whole jail, otherwise we shall go on hunger strike. She was produced before the then Superintendent Jail, Ambala and he awarded the punishment of warning.

(viii) On 13.07.2010, female warder Manju Devi went in the office of Deputy Superintendent with an unstitched suit. Female convict Sonia also got entered into the office of Deputy Superintendent without permission and argue with the Deputy Superintendent to take the un stitched suit inside the Jail, the female convict cried loudly saying that I have seen many Deputies during my conviction and shall play such a ill trick due to which you will be terminated from service. The then Superintendent Jail, Ambala awarded the punishment of stoppage of interview till furthers orders and kept her in cell. The awarded punishment got judicially appraised from Ld. District and Sessions Judge, Ambala vide their order No. 4614 dated 20.08.2010.

(xi) On 15.09.2021 the said female convict with her co-prisoners quarreled with other female prisoners and hurt them for which not awarded any punishment as both the parties have already reached on an agreement during confinement in Central jail, Ambala.

(x) On 22.03.2014, the said female convict quarreled with other female prisoners and hurt them and also used abused language to female warded Salinder Kaur and Rekha-Devi, for this she was awarded the punishment of warning by then Superintendent Jail, Ambala.

(xi) On 29.09.2015, the said female convict misbehave with female warder Seema and from hand and mouth, she came to use legs with the Female warder for which she was produced before the Superintendent jail, Rohtak who awarded her the punishment of warning.

(xii) On 23.12.201S, the female convict has quarreled with other female convict Reeta W/o Pun Dev in District Jail, Yamuna Nagar which was entered in History ticket.

(xiii) On 04.04.2018, the female convict has quarreled with other female convict Pooja @ Shivani W/o Parvesh in District Jail, Kurukshetra and gave oral warning by the Superintendent District Jail Kurukshetra.

(xiv) On 20.09.2018, the female convict has quarreled with other undertrial prisoner Lata D/o Jaiparkash in Distric Jail Kurukshetra and warned by Superintendent District Jail Kurukshetra.

(xv) On 23.10.2018, the female convict tried to do suicide case registered against the female convict.

(xvi) On 06.10.2021, the female convict misbehaved with female warder Bedmti during confinement at District Jai Panipat and punished for deduction of remission for 10 days (Judicially appraised by District & Session Judge Panipat.

(xvii) On 24.02.2023, the female convict has quarreled with female under trial prisoner Narinder Kaur w/o Meha Singh (Case Registered against female convict).

This female life convict had also remained involved in four other criminal offences as detailed below:-

(i) FIR No. 264 dated 24.10.2008 U/s 224/419/ 420/467/471/120-B/34 IPC, P.S. Baldev Nagar Ambala.

(ii) FIR No. 948 dated 24.09.2018 U/s 323/325 IPC, P.S. City Thanesar: Acquitted on 05.04.2023.

(iii) FIR No. 1013 dated 23.10.2018 U/s 309 IPC, P.S. City Thanesar: Convicted and sentenced to 06 months SI on 12.04.2023.

(iv) FIR No. 46 dated 24.02.2023 U/s 45 Prison Act, P.S. Ram Nagar Karnal: Pending.

24. While referring to the abovementioned offences, a conclusion has been drawn by the competent authority that the abovementioned jail offences committed by the petitioner reflected that the petitioner had not improved her conduct despite incarceration for a period of about 20 years. It has been further observed that the abovementioned jail offences show that the convict has no sign of reformation.

25. With regard to abovementioned observations, it is pertinent to mention here that as per policy regarding premature release of life convicts, Clause 4(i) of the abovementioned policy deals with the procedure for assessment of conduct of a prisoner with regard to jail offences. It prescribes that 'the Superintendent of the Jails concerned shall submit premature release cases of life convicts two months before they complete the sentence mentioned above along with their comments to the Director General of Prisons, Haryana keeping in view the following points:-

(i) Overall conduct of the life convicts during his/her confinement in the jail with specific emphasis, however on his conduct for the last five years from the date of his/her eligibility for consideration of premature release under para 2(aa) to 2(a) may be termed as under:-

a. If he/she has not been punished for any jail offence during the last five years.	Good
b. If he/she has been punished with a minor punishment during the last five years.	Satisfactory
c. If he/she has been punished with a major punishment during the last five years.	Satisfactory

26. The abovementioned clause in the policy shows that for the purpose of assessment of a prisoner for premature release, only the conduct of the petitioner in the last 05 years has to be looked into, but the impugned order shows that while considering the abovementioned factor, the jail offences committed by the petitioner during the period 2005-2018, too, have been taken into consideration. Since the impugned order was passed on 06.08.2024 by any stretch of imagination, the jail offences committed by the petitioner prior to 2019 should not have been taken for the assessment of conduct of the petitioner. Thus, it is hereby held that an error has been committed by the competent authority while observing that due to large number of jail offences committed by the petitioner, this conclusion can be drawn that there was no sign of reformation.

27. In this context, the Hon'ble Supreme Court of India in Home Secretary (Prison) (*supra*) has observed that 'in case, as pointed out above, a petition is filed without any decision(s) of the State Level Committee in terms of Para 5(I) of the G.O. in question, the Court should direct the concerned Committee/authority to take decision within a reasonable period.

Obviously, too much time cannot be given because the liberty of a person is at stake. This order would be more in the nature of a writ of mandamus directing the State to perform its duty under the Scheme'.

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

29. 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'.

30. In the case of State of Haryana & Ors. V/s Jagdish, AIR 2010 SC 1690, the Hon'ble Supreme Court of India 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'.

32. This Court in the case of Kamal Kant Tiwari (*supra*) deprecated the practice of jail authorities when contrary to the Government policy, the case of a convict, who had not committed any jail offence in the last 05 years, was not recommended by the jail authorities.

33. With regard to impugned order, it is also relevant to mention here that the impugned order contains a comment with regard to background in which the death sentence awarded to the petitioner was converted into life imprisonment. This part reads as under:-

> *"In Writ Petition (Criminal) No.188 of 2013 filed before the Hon'ble Supreme Court of India, on the grounds of delay in deciding her mercy appeal by the His Excellency the President of India, her death sentence was converted to life imprisonment, vide order dated 21.01.2014 by the Hon'ble Supreme Court of India. Thus, her death sentence was not converted to life*

> *imprisonment on merits and the facts of her case but the same was converted on the ground of delay in deciding her mercy petition."*

34. In addition to above, the impugned order also discussed the evidence, which was placed before the learned trial Court. The abovementioned reference is recorded in the impugned order in the following words:-

> *"Further, in her judicial confession and suicide note, this life convict admitted that the small children were killed otherwise they would kill her son. This act of this life convict shows that the murders were meticulously executed having even future plans in the mind."*

35. As far as the abovementioned contents of the impugned order are concerned, the same show that the competent authority while passing the impugned order has transgressed into the jurisdiction, which is exclusively vested in the Court, which is reflective of the fact firstly that the State Level Committee while discussing the abovementioned facts was already having a prejudice mind, and secondly that it has ventured into the field, which was beyond the scope of its jurisdiction. The quality of evidence, which was placed before the learned trial Court, has to be discussed either by the learned trial Court or the Court dealing with appeal. But the State Level Committee while dealing with an issue with regard to eligibility of the petitioner for remission in sentence, is not supposed to look into the quality

of evidence, which was placed before the learned trial Court during the course of trial. The abovementioned discussion in the impugned order in itself vitiates the findings recorded by the High Level Committee and renders the impugned order perverse.

36. One more area, wherein the observations beyond its jurisdiction have been made by the State Level Committee, is the recommendation that the petitioner should be kept in jail till her last breathe. With regard to above, it is relevant to note that the scope of High Level Committee while making recommendation, and of the competent authority while passing the impugned order, was limited to the scope as to whether under the policy, the benefit of remission of sentence could be awarded to the petitioner or not. As such, there was no authority vested either in the State Level Committee or in the competent authority to enlarge the scope of sentence awarded to the petitioner and take a decision upto what period the petitioner would serve the sentence. Once the verdict of Hon'ble Supreme Court of India was already there and with regard to period to which the petitioner is to undergo sentence, statutory provisions and policy were already there, it was not within the competence of State Level Committee, while making a recommendation or the competent authority while passing the impugned order, that the period of sentence to be undergone by the petitioner could have been enlarged.

37. In this regard, the Division Bench of this Court in the case of 'Union of India V/s V. Sriharan @Murugan, (2016) 7 SCC 1, has ruled that 'the power derived from the Penal Code for any modified punishment within the punishment provided for in the Penal Code for such specified offences can only be exercised by the High Court and in the event of further appeal only by the Supreme Court and not by any other Court in this country. To put it differently, the power to impose a modified punishment providing for any specific term of incarceration or till the end of the convict's life as an alternate to death penalty, can be exercised only by the High Court and the Supreme Court and not by any other Court'.

38. With regard to instant case the observations made by the Hon'ble Supreme Court of India in the case of 'Ravada Sasikala V/s State of Andhra Pradesh', 2017(4) SCC 546 are also relevant, wherein the Hon'ble Supreme Court of India has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realize the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

39. 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."*

40. 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'.

41. If the facts and circumstances of the case pertaining to the present case are analyzed in the light of principles of law, discussed above, it transpires that the impugned order is patently perverse, illegal, unsustainable in the eyes of law, and therefore, the same deserves to be set aside.

42. 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 12.04.2002 as well as the observations made in the foregoing paragraphs of this judgment, within a period of two months from the date of receipt of copy of this order.

43. 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 Hisar.

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

(SURYA PARTAP SINGH)
JUDGE

09.12.2025
Gaurav Thakur

Whether speaking / reasoned Yes/No
Whether Reportable Yes/No