

2025:PHHC:000647



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

CRWP-11512-2024

Date of Decision: 07.01.2025

Ranbir @ Kaka

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Tarun Sharma, Advocate for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

HARPREET SINGH BRAR, J. (ORAL)

1. The present criminal writ petition has been filed under Article 226 of Constitution of India for issuance of writ in the nature of Certiorari for quashing the impugned order dated 06.08.2024 (Annexure P-4) passed by respondent No.2, whereby the application filed by the petitioner for premature release has been rejected, in contravention of the policy dated 12.04.2002 (Annexure P-1).

2. Learned counsel for the petitioner *inter alia* submits that the petitioner has undergone 16 years of actual custody and a custody of 20 years including remission. According to the applicable policy i.e. policy dated 12.04.2002, the petitioner falls into Category 'A' and requires 14 years of actual custody and 20 years of total custody to be eligible for premature release. The State Level Committee was required to consider the case of the petitioner in terms of the policy applicable at the time of his conviction, which would be the policy dated 12.04.2002, according to which the petitioner is

eligible for premature release. Reliance in this regard has been placed upon the judgments rendered by the Hon'ble Supreme Court in ***Raj Kumar Vs. State of Uttar Pradesh, 2024(9) SCC 598*** and ***State of Haryana and others Vs. Jagdish, 2010 AIR (Supreme Court) 1690***. However, without assigning any reasons, the case of the petitioner has been deferred by one year. Denying the concession of premature release to a convict citing nature of the offence committed by him would defeat the purpose of the policy.

3. Further, the co-convict in the present case had approached this Court by filing CRWP-10083-2022 titled as '***Kuldeep Singh Vs. State of Haryana and others***' wherein, vide order dated 16.01.2024 (Annexure P-4), this Court had directed the authorities to consider his case strictly in accordance with the policy applicable at the time of his conviction. In compliance of the said order, the co-convict has been prematurely released. As such, the case of the petitioner deserves to be considered afresh in terms of the judgment passed by this Court in ***Pohlu @ Polu Ram Vs. State of Haryana and others, 2025(1) R.C.R. (Criminal) 297***.

4. *Per contra*, learned State counsel could not controvert the fact that the case of the petitioner was required to be considered under the policy which was applicable at the time of his conviction i.e. policy dated 12.04.2002 or that his case was rejected and deferred by one year vide impugned order dated 06.08.2024 (Annexure P-3).

5. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the petitioner was convicted by the learned Sessions Judge, Ambala vide judgment of conviction and order of sentence dated 22.10.2007 in the case stemming from FIR No.189 dated 19.06.2004 registered under Sections 302, 307, 452, 34 of the Indian Penal Code, 1860 at Police Station Ambala Cantt., District Ambala.

6. This Court in *Pohlu @ Polu Ram(supra)* has strongly discouraged the practice of indiscriminately deferring cases pertaining to premature release. In the absence of any specific provision in the applicable policy, the competent authority cannot act arbitrarily and defer the cases of prisoners for premature release especially by citing change in policy, in view of the law laid down in *Rajkumar's case (supra)*. A perusal of the policy dated 12.04.2002 does not indicate any provision allowing deferment of the case of an applicant. The competent authority is required to assess the case, strictly in terms of the applicable policy, and pass a reasoned order in terms of the settled law.

7. Therefore, in view of the ratio of law laid down in *Raj Kumar (supra)*, *Jagdish (supra)* and *Pohlu @ Polu Ram (supra)*, the impugned order dated 06.08.2024 (Annexure P-4) passed by respondent No.2 is set aside. Further, the official respondents are directed to consider the case of the petitioner afresh, strictly in accordance with the policy applicable at the time of his conviction, preferably within a period of 08 weeks from the receipt of the certified copy of this order.

8. Disposed of, accordingly. Pending miscellaneous application(s), if any, shall also stand disposed of.

07.01.2025

Parveen kumar

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned :Yes/No
Whether reportable :Yes/No