CNR No: PHHC011671612026

2026:PHHC:194846

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRWP-12097-2026

Mukesh

….Petitioner

versus

State of Haryana and others

….Respondents

Date of Decision: October 30, 2026
Date of Uploading: October 30, 2026

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Lajpat Rai Sharma, Advocate for the petitioner.

Mr. Gurmeet Singh, AAG Haryana.

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SUMEET GOEL, J.

Present criminal writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of Certiorari, seeking setting-aside of the impugned order dated 24.08.2026 (Annexure P-9) passed by respondent No.1, vide which the case of the petitioner for pre-mature release has been rejected and deferred to be reconsidered after a period of 01 year, which is against the law laid down by this Court in **CRWP-8232-2022** titled as **Pohlu @ Polu Ram versus State of Haryana and others**, decided on **05.02.2024** and also in violation of Premature Release Policy dated 13.08.2008 (Annexure P-2). Further prayer has been made to direct the respondents to release the petitioner till the case is not considered by the competent authority for premature release, as per the Pre-Mature Release Policy dated 13.08.2008 (Annexure P-2).

2. Learned counsel for the petitioner has, *inter alia*, contended that the petitioner had earlier approached this Court by way of filing a petition i.e. **CRWP-11281-2024**, which was disposed of, vide order dated 02.12.2024; relevant whereof reads thus:

> "*4. Given above, the petition is disposed of with observations that if the case of the petitioner is at par with the co-convict then petitioner is certainly entitled to same relief as given to co-convict under Article 14 of Constitution of India. As such, let a decision be taken by the concerned authorities that whether the petitioner is entitled to same relief as was given to some co-convict and because of Article 14 which provides equality before law and grounds on parity. The decision be taken on or before 31.12.2024. Liberty reserved to petitioner to come again to this Court, if need arises. All pending applications, if any, stand disposed of.*"

2.1. Learned counsel has further iterated that pursuant to the aforesaid order, respondent No.3 passed the order dated 18.02.2025 (Annexure P-7) rejecting the plea of the petitioner on the ground that the petitioner had not completed actual sentence of 14 years and total sentence of 20 years along with remissions. It has been urged that the petitioner laid challenged the order dated 18.02.2025, by way of **CRWP-9155-2025** and the said writ petition was disposed of vide order dated 21.04.2026 (Annexure P-8) by directing the concerned State Authorities to take a ratiocinated decision upon the plea of the petitioner. It has been contended that yet again, vide impugned order dated 24.08.2026 (Annexure P-9), case of the petitioner was rejected and deferred for one year to be reconsidered from 30.06.2026 to evaluate his conduct.

2.2. Learned counsel has urged that co-convict(s) of the petitioners, namely, Bansi, Rajinder @ Naresh and Yad Ram @ Yadu @ Pappu who had also approached this Court by way of different writ petition(s) seeking their pre-mature release, and the case of the petitioner is similarly placed as to that of aforesaid co-convicts, have already been ordered to be released; however, the petitioner has not been accorded the same benefit.

2.3. Learned counsel has further iterated that the petitioner, along with his co-accused, was convicted for commission of offence punishable under Section 460 read with Section 34 of IPC and sentenced to undergo Life imprisonment, vide judgment of conviction/ order of sentence dated 20/21.02.2009 (Annexure P-1) by the learned Additional Sessions Judge, Panipat; and appeal preferred thereagainst also stands dismissed vide judgment dated 29.07.2013 passed in **CRA-D-775-DB-2010**.

2.4. Learned counsel has argued that the case of the petitioner, for grant of Pre-Mature Release, has been passed in violation of Pre-Mature Release Policy dated 13.08.2008 (Annexure P-2) and further in direct violation of decisions of this Court in **Pohlu @ Polu Ram vs. State of Haryana and others**, **CRWP No.8232 of 2022**, decided on **05.02.2024**, as well as decision of the Hon'ble Supreme Court in **State of Haryana versus Jagdish**, reported as **AIR 2010 SC 1690**. Learned counsel has further argued that the impugned order is also against the decision of co-ordinate Bench of this Court passed in **CRWP-11218-2024** titled as **Pawan Kumar versus State of Haryana and others**, vide order dated **19.02.2025**. Learned counsel has argued that the petitioner's case has been deferred on account of the fact that petitioner, along with his co-accused, had committed dacoity and murder of a young man and also injured the complainant, which is heinous crime and further, the petitioner was also involved in 08 other serious criminal cases. Hence, grant of petition in hand is prayed for.

3. *Per contra*, learned State counsel has filed reply by way of an affidavit dated 28.10.2026, in the Court today, which is taken on record. Raising submissions in tandem with the said reply, learned State counsel has opposed the

grant of petition in hand by arguing that the case of the petitioner has rightly been rejected and deferred as he has committed a heinous crime, however, he could not controvert the fact that the petitioner fulfils the conditions mentioned in the Policy (Annexure P-2), which is applicable in the case of the petitioner.

4. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, this Court is of the opinion that the policy framed by the State Government governing Pre-Mature Release is equally applicable to all convicts and directly impacts their fundamental rights as enshrined under Articles 14, 19 and 21 of the Constitution of India. Once eligible to be considered for premature release according to the applicable policy, the State cannot deny him this concession without recording due reasons for the same. The State is duty bound to act fairly and to proceed according to the policy formulated by it in a manner that does not discriminate between similarly situated persons in absence of an intelligible differentia. Non-arbitrariness is a facet in Article 14 of the Constitution of India and the State and all its agencies are required to abide by it. The State cannot indulge in cherry picking and only provide the concession of premature release to a select few out of the pool of similarly situated convicts and such approach is highly inequitable.

5. A two Judge Bench of the Hon'ble Supreme Court in ***Joseph vs. The State of Kerala and others, Writ Petition (Criminal) No.520 of 2022 decided on 21.09.2023, 2023 SCC OnLine SC 1211***, speaking through Justice S. Ravindra Bhat, has held as under:

> "*28. To issue a policy directive, or guidelines, over and above the Act and Rules framed (where the latter forms part and parcel of the former), and 14 undermine what they encapsulate, cannot be countenanced. Blanket exclusion of certain offences, from the scope of grant of remission, especially by way of an executive policy, is not only arbitrary, but turns the ideals of reformation that run through our criminal justice system, on its*

head. Numerous judgments of this court, have elaborated on the penological goal of reformation and rehabilitation, being the cornerstone of our criminal justice system, rather than retribution. The impact of applying such an executive instruction/guideline to guide the executive's discretion would be that routinely, any progress made by a long-term convict would be rendered naught, leaving them feeling hopeless, and condemned to an indefinite period of incarceration. While the sentencing courts may, in light of this court's majority judgment in Sriharan (supra), now impose term sentences (in excess of 14 or 20 years) for crimes that are specially heinous, but not reaching the level of 'rarest of rare' (warranting the death penalty), the state government cannot – especially by way of executive instruction, take on such a role, for crimes as it deems fit.

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37. Classifying - to use a better word, typecasting convicts, through guidelines which are inflexible, based on their crime committed in the distant past can result in the real danger of overlooking the reformative potential of each individual convict. Grouping types of convicts, based on the offences they were found to have committed, as a starting point, may be justified. However, the prison laws in India - read with Articles 72 and 161 - encapsulate a strong underlying reformative purpose. The practical impact of a guideline, which bars consideration of a premature release request by a convict who has served over 20 or 25 years, based entirely on the nature of crime committed in the distant past, would be to crush the life force out of such individual, altogether. Thus, for instance, a 19 or 20 year old individual convicted for a crime, which finds place in the list which bars premature release, altogether, would mean that such person would never see freedom, and would die within the prison walls. There is a peculiarity of continuing to imprison one who committed a crime years earlier who might well have changed totally since that time. This is the condition of many people serving very long sentences. They may have killed someone (or done something much less serious, such as commit a narcotic drug related offences or be serving a life sentence for other non-violent crimes) as young individuals and remain incarcerated 20 or more years later. Regardless of the morality of continued punishment, one may question its rationality. The question is, what is achieved by continuing to punish a person who recognises the wrongness of what they have done, who no longer identifies with it, and who bears little resemblance to the person they were years earlier? It is tempting to say that they are no longer the same person. Yet, the insistence of guidelines, obdurately, to not look beyond the red lines drawn by it and continue in denial to consider the real impact of prison good behavior, and other relevant factors (to ensure that such individual has been rid of the likelihood of causing harm to society) results in violation of Article 14 of the Constitution. Excluding the relief of premature release to prisoners who have served extremely long periods of incarceration, not only crushes their spirit, and instils despair, but signifies society's resolve to be harsh and unforgiving. The idea of rewarding, a prisoner for good conduct is entirely negated.

38. In the petitioner's case, the 1958 Rules are clear – a life sentence, is deemed to be 20 years of incarceration. After this, the prisoner is entitled to premature release. The guidelines issued by the NHRC pointed out to us by the counsel for the petitioner, are also relevant to consider - that of mandating release, after serving 25 years as sentence (even in heinous crimes). At this juncture, redirecting the petitioner who has already undergone over 26 years of incarceration (and over 35 years of punishment with remission), before us to undergo, yet again, consideration before the

> *Advisory Board, and thereafter, the state government for premature release - would be a cruel outcome, like being granted only a salve to fight a raging fire, in the name of procedure. The grand vision of the rule of law and the idea of fairness is then swept away, at the altar of procedure - which this court has repeatedly held to be a "handmaiden of justice.*"

6. A Full Bench of the Hon'ble Supreme Court in ***Rajkumar vs. The State of Uttar Pradesh AIR 2023 SC 265***, speaking through Chief Justice Dhananjaya Y. Chandrachud, has held as under:

> "*13. 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 the 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.*"

7. A two Judge bench of the Hon'ble Supreme Court in ***Jagdish's case (supra)***, speaking through Justice Dr. B.S. Chauhan laid down the parameters to consider while deciding upon the question of premature release:

> "*38. 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*
>
> *1. whether the offence was an individual act of crime without affecting the society at large;*
> *2. whether there was any chance of future recurrence of committing a crime;*
> *3. whether the convict had lost his potentiality in committing the crime;*
> *4. whether there was any fruitful purpose of confining the convict any more;*
> *5. the socio-economic condition of the convict's family and other similar circumstances." (enumeration added)*"

8. While the petitioner has committed grave and serious offences, once a duly enacted policy is in existence, it must be honoured and applied to each case in its letter and spirit. The theory of reformation and rehabilitation that

emerged in the 18th century aims at separating the criminal from the crime and compels us to look beyond the one fateful act committed by him. In a civilized society like ours, it would be truly unfortunate, if an offender is not given the opportunity to realize and fully fathom his mistake and channel that awareness into making fruitful contributions in society. The peno-correctional institutes must not only be looked at as a place, where punishment is carried out, but also a place of rehabilitation. The criminal justice dispensation system must be guided by the idea of allowing the offender to rectify his wrong and reintegrate into the society as a law abiding member once the sentence is served.

9. This Court in ***Pohlu @ Polu Ram's case (supra)***, while dealing with deferment of cases of the accused for premature release, has held as under:

> "*The entire edifice of exercise of judicial or quasi-judicial power rests on the foundation of giving reasoned and detailed orders. It is a fundamental principle of natural justice and ensures that there is proper and due application of mind while exercising said power. Therefore, the practice of arbitrarily categorising convicts as threats to society or indiscriminately deferring their cases for premature release needs to be strongly discouraged. It is expedient that the competent authority does not act in a ritualistic fashion and application of mind is discernible.*"

10. It would be naive to hope for a society without crime, however, it would be in line with the welfarist approach of State to make an attempt towards rehabilitation of offenders and allow them to reshape themselves as a functional member of the society. The overarching goal of punishment is deterrence and the sentiment must not be weaponised to glamorise savage justice. People from all walks of life hold the idea of liberty close to their heart and have historically done everything in their power to not part from it. For a convict serving a life sentence, liberty has to be the most precious of possessions. It should not be assumed that all convicts when released will unleash revenge onto their prosecutors. The convict's conduct in jail, state of mind, gravity of the offence,

social background and behaviour while on parole must be duly considered before deciding upon the question of his premature release. In the words of Justice Krishna Iyer, "*Social Justice is the signature tune of our Constitution and the little man in peril of losing his liberty is the consumer of Social Justice*."

11. In view of the above, impugned order dated 24.08.2026 (Annexure P-9) is set aside and the competent authority is directed to consider and decide case of the petitioner afresh, strictly in accordance with applicable policy and also in view of ratio of law laid down by the Hon'ble Supreme Court in ***Jagdish's case (supra)*** and by this Court in ***Pohlu @ Polu Ram's case (supra)*** and ***Pawan Kumar's case (supra)*** within a period of 04 weeks from the date of receipt of certified copy of this order.

12. With the aforesaid observations made and directions issued, present petition is disposed of.

13. It is made clear that any deviation from the policy or the guidelines/directions given by this Court would entitle the petitioner to file appropriate application under Article 215 of the Constitution of India, seeking initiation of Contempt of Court proceedings against the official concerned.

14. Pending application(s), if any, shall also stand disposed of accordingly.

(SUMEET GOEL)
JUDGE

October 30, 2026
mahavir
Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No