

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
WRIT PETITION (CRL.) NO(s). 41 OF 2013

VIRENDRA

Petitioner(s)

VERSUS

STATE OF U.P. & Ors.

Respondent(s)

(With office report)

Date: 11/09/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

For Petitioner(s) Mr.S.Mahendran,Adv. (A.C.)

For Respondent(s) Ms. Pragati Neekhara,Adv.
Mr. Mukul Singh,Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard.

The petitioner in this writ petition was convicted for offences punishable under Sections 302, 147, 148, 149 and 452 of the Indian Penal Code and sentenced to death as early as in February, 1990. On an appeal preferred by him the death sentence was converted to life imprisonment by an order of the High Court of Judicature at Allahabad dated 5th December, 1991. The petitioner has been in custody ever since the date of his conviction by the trial court save and except a short period during which he was on bail or on parole.

It is common ground that by the time the petitioner filed this writ petition, he had already undergone nearly 22 years 7 months and 13 days imprisonment as on 16th May, 2013 excluding the parole period. An application filed by the petitioner's wife seeking remission of his sentence and release was it appears considered by the competent authority and rejected in terms of an order dated 14th June, 2012. A copy of that order has been placed by Ms. Pragati Neekhara, learned counsel for the respondent-State of U.P. From a reading of the order passed by the competent authority we find that except stating that the petitioner has not been found entitled to premature release, no reason for refusal to grant relief has been indicated.

Be that as it may, the petitioner appears to have made yet another application seeking premature release from jail. That application is, according to Ms. Neekhara, under consideration by the competent authority. Our attention has been drawn to an order passed by this Court on 19th July, 2013 in W.P.(Crl.) No.11 of 2013 where in almost similar circumstances this Court has, keeping in view the long period of imprisonment undergone by the petitioner in that case, directed his release on bail with a direction to the competent authority to consider and dispose of the application for premature release pending before it. Ms. Neekhara submits that instead of directing unconditional release of the petitioner this Court could, on the analogy of the said order, direct the competent authority to consider the pending application

of the petitioner for his premature release. We find merit in that submission. The petitioner has, as noticed above, already completed nearly 23 years of actual imprisonment as on date. The prayer for premature release made earlier was declined ostensibly because of involvement of the petitioner in a criminal case for offences punishable under Sections 504 and 506 of I.P.C. registered during the period he was temporarily released on parole. We are told that the said case is no longer an impediment in his release as the petitioner has been acquitted by the Court in that case. At any rate a fresh application filed on behalf of the petitioner may have to be considered on its own merits and disposed of by a reasoned order by the competent authority.

We accordingly direct release of the petitioner on bail, subject to his furnishing bail bonds in a sum of Rs.10,000/- (Rupees ten thousand) with two sureties in the like amount to the satisfaction of the trial court.

We further direct that the pending application of the petitioner for premature release shall be considered by the competent authority expeditiously but not later than four months from today. The competent authority shall take care to pass a reasoned order on the subject. A copy of the order so passed shall be placed before this Court on or before the next date of hearing. This petition shall, in the meantime, stand adjourned to be posted again after four months along with W.P.(Crl.)No.11 of 2013 and similar further matters, a list whereof shall be furnished by Ms. Neekhara to the Registry within two weeks from today.

|(Mahabir Singh)
| Court Master

|(Veena Khera)
| Court Master