

HARI CHAND

ADVOCATE

ਹਰੀ ਚੰਦ

ਵਕੀਲ

PUNJAB & HARYANA HIGH COURT

ਪੰਜਾਬ ਅਤੇ ਹਰਿਆਣਾ ਹਾਈ ਕੋਰਟ

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ਸੈਕਟਰ 44- ਸੀ

ਚੰਡੀਗੜ੍ਹ 160045

DATED: 25.6.2019

To,

Chief Secretary, Government of Punjab, Punjab Civil Secretariat, Chandigarh.

SUBJECT: Demand for framing policy for awarding reasonable amount of compensation to dependent family members of victim of murder , in case of release of life convicts under “Policy of Pre-mature release of life convicts” or under “Pardon” granted by Hon’ble Governor/President of India.-and for payment of Rs. One Crore as compensation to parents of slain Harjit Singh, whose murderers (all Police official) have been granted pardon by Hon’ble Governor of Punjab.

Sirs,

In this context, I have to submit as under:-

1. That in both the States of Punjab and Haryana, the life convicts in murder cases, “with good conduct” are being released under their “Premature Release of Life Convicts” policies, on completion of around 8 to 10 years of sentence, which is quite alarming in the face of provisions of Section 433-A of the Criminal Procedure Code, 1973, which lays down as under:-

“433-A. Restriction on powers of remission or commutation in certain cases.- Notwithstanding anything contained in section 432, where a sentence of imprisonment for life is imposed on conviction of a person for an offence for which death is one of the punishment provided by law, or where a sentence of death imposed on a person

has been commuted under section 433 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment.”

2. That recently in May, 2019, four Police officials namely, 3 cops from UP, (i) Ravinder Kumar Singh; (ii) Brij Lal Verma, and (iii) Onkar Singh Yadav, and a former Inspector of Punjab Police, namely, Harinder Singhm have been granted “Pardon” by the Hon’ble Governor of Punjab, obviously on recommendation of Punjab Government. The offence committed by them was of killing a young man through a fake “Police Encounter”. No compensation has been granted to the parents of murder victim, Harjit Singh, while giving this huge concession to the Police officials. It may also be submitted that under the latest Policy of Pre-mature release of life convicts evolved by Punjab Government, there is no provision for awarding any compensation to dependent family members of murder victim, as a pre-condition for pre-mature release of concerned life convict.
3. That it may be pertinent to submit that in our Country, the criminal cases of murder/ murder with rape are prosecuted by the State Government on behalf of the family members of such victim (in murder cases). The Government Counsels/Prosecutors take up the cause of victim’ family, and take it to logical conclusion. State Governments also pay some compensation to dependent family members of the victim, in terms of provisions of the appropriate policy framed by the State Government under Section 357-A of the Criminal Procedure Code, 1973. The underlying principle of such policy is that Government pays some compensation to the dependent members of his/her family for failure of the State to protect life and liberty of the victim. The State prosecutes the case on behalf of victims of crime for the reason that it treats such crimes not against an individual citizen, but as a crime against society. The compensation to victims is paid out of taxes paid by the society/its members to the State Government.

4. That it is also pertinent to state that even if the family members of the victim want to themselves prosecute the case against the accused, they are not permitted to do so under the law, namely “Criminal Procedure Code, 1973”, except for very limited purposes. Their Counsel is permitted only to assist the Public Prosecutor. Thus, the family members of the victim have to depend wholly on the Public Prosecutor for bringing the accused to book. They have to place complete faith in such Public Prosecutor. The Public Prosecutor is fully responsible and accountable to the State Government for prosecuting the case. Any intentional lapse by such Public Prosecutor in assisting the Court amounts to breach of faith on his part.

5. That in the aforesaid back ground, the Policy for Premature Release of Life Convicts, as it stands today, amounts to breach of faith or betrayal of the victim’s family by the State Government, particularly because the State while deciding to order premature release of the life convict before completion of his sentence, does so behind the back of the family members of the victim. If a life convict, who is supposed to remain in prison for 14 years, as envisaged under Section 433-A of the Criminal Procedure Code, 1973, is released on completion of ten years’ of sentence, it is a huge favour to him by the State. The expectations of the victim’s family are shattered. In lay man’s language, such decision of the State Government amounts to breach of faith towards the family members of the victim. Their entire struggle for sending the accused behind the bars for entire life is defeated at the hands of the State Government, whom he trusted like God. The concept of welfare State holds good for victim’s family, as well as the life convict. The victim’s family, in lieu of such premature release of the life convict, must be compensated for the period of reduction of sentence (4 years). In my humble opinion, compensation of at least Rs.2.5 lakh, for every year of sentence waived, should be paid. In other words, an amount of Rs.10 lakh should be paid by the State Government to the victim’s family in each such case, although the State Government is free to recover it from the life convict so released. If the life convict was a Police official, who killed the victim in a fake Police encounter, compensation of twice the

aforesaid amount should be paid, as in his case, the State is also vicariously liable towards the victim's family, since Police officials are meant to protect the life of citizens, and not to kill them in fake encounters.

6. That it may also be submitted that "pardon" given to the life convict is fraught with dangerous consequences. Grant of pardon to a life convict by the Governor is the biggest favour that the State can do to a murder convict . If the beneficiary of pardon is a Police official, he comes back in service. The effect of pardon is that the offence for which he was convicted becomes non-existent, or is wiped out, and he would get all service benefits, including promotions as if he had never committed the offence. Grant of pardon to a Police official is the strongest shock to the family members of the murder victim. The presence of such a person in Police is itself a threat to the existence of law and order. Their only solace that they could bring the murder to prison, is frustrated. That is precisely the plight of parents of 'Harjit Singh", whose murderers (all four Policemen) have been pardoned by Hon'ble Governor, after they were convicted by the Court of Law, and had spent only two or three years in jail. Harjit Singh was the future of these parents, and their support in old age. He was killed in the prime of his youth. It is high time that the State of Punjab should come forward to award reasonable compensation to the parents of Harjit Singh, at the same scale, as awarded to parents of young persons killed in Behbal Kalan, and in any case, not less than Rupees one crore, without prejudice to their right to challenge the order of pardon, passed by Hon'ble Governor of Punjab in favour of murderers of their son. I would also call upon you to frame a policy in this regard for awarding reasonable compensation to the family member of victim of murder, in case the convicted murder is released by way of premature release under Government's policy, or is pardoned by Hon'ble Governor, or Hon'ble President of India.

Needless to state that in case I do not receive any positive response from you within a period of one month, in that event, I shall be left with no other alternative except to file appropriate

proceedings in the Hon'ble High Court, for redressal of my legitimate grievances mentioned above, in larger public interest.

Meanwhile, please acknowledge receipt.

Yours Sincerely,

(HARI CHAND)

ADVOCATE