

Hiralal

Vs

State of Jammu and Kashmir

Writ Petition Criminal No. 2632 of 1983

(D. A. Desai, A. P. Sen, JJ)

16.04.1984

ORDER

1. Rule Nisi.

2. We heard Mr T. S. Arora, learned counsel for the petitioner and Mr Altaf Ahmad, learned counsel for the State of Jammu & Kashmir.

3. The petitioner was under 20 years of age at the time of the commission of the offence. He was convicted for committing murder and was awarded capital punishment by the learned Sessions Judge. In appeal the sentence was commuted to life imprisonment by the High Court of Jammu & Kashmir.

4. The petitioner is in jail uninterruptedly from the date of his arrest i.e. June 24, 1974. Today, he has not completed 10 years of actual sentence. But Mr Altaf Ahmad, learned counsel pointed out that with remission he has completed 10 years of sentence.

5. Rule 516-B(b) of the Punjab Jail Manual in its application to the State of Jammu & Kashmir provides that the case of a male prisoner under 20 years of age at the time of the commission of the offence who is undergoing :

(iv) a single sentence of more than 20 years shall be submitted through the Inspector-General of Prisons, Punjab (State of Jammu & Kashmir) for the orders of the State Government where the prisoner has undergone a period of detention in jail amounting together with remission earned to 10 years.

6. It appears that the Standing Board constituted for considering cases for premature release has not considered the case of the petitioner in terms of the relevant rule herein quoted. Therefore, this petition is allowed to the extent that the State of Jammu & Kashmir and the Standing Board are directed to consider the case of the petitioner for premature release in terms of Rule 516-B(b)(iv) in its next meeting.

7. With this direction, the writ petition is disposed of.

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