

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (Cr.) No. 307 of 2026

Anil Sharma, S/o Shri Nandesh Prasad Sharma, R/o Sharma Lane, Opp. G.E.L. Church Complex, Main Road, P.O. & P.S.- Hindpiri, Dist.- Ranchi. --- --- **Petitioner**

Versus

1. The State of Jharkhand through Principal Secretary, Home Department, Department of Home, Jail & Disaster Management, Dhurwa, Ranchi.
2. The Secretary, Department of Home, Dhurwa, Ranchi.
3. The Secretary Department of Home, Jail & Disaster Management, Dhurwa, Ranchi.
4. The Inspector General of Prisons-cum-Chairman, State Sentence Review Board, Department of Home, Jail & Disaster Management, Dhurwa, Ranchi.
5. The Superintendent, Birsa Munda Central Jail, Hotwar, Ranchi.
6. The Superintendent, Lok Nayak Jai Prakash Narayan Central Jail, Hazaribagh.
7. The Superintendent, Central Jail, Dumka.

--- --- **Respondents**

PRESENT

HON'BLE MR. JUSTICE RONGON MUKHOPADHYAY

For the Petitioner : Mr. Ajit Kumar, Sr. Adv.
Mr. Akash Ajit Kumar, Adv.
Mr. Sabiuddin, Adv.
For the State : AC to Sr. A.A.G.

CAV on : 21/09/2026

Pronounced on : 13/10/2026

JUDGMENT

1. Heard Mr. Ajit Kumar, learned senior counsel for the petitioner and learned AC to Sr. A.A.G.
2. In this writ application, the petitioner has prayed for the following reliefs:

“a) *Issue an appropriate writ, order or direction,*

including a writ of Certiorari, for quashing and setting aside the impugned Notification No. 1262 dated 25.03.2026 (Annexure-30) issued by the State Sentence Review Board, whereby and whereunder the claim of the petitioner (his name appears at serial no. 15) for premature release has been illegally and wrongfully rejected in utter violation of and de hors the applicable state policy being the Bihar Policy, 1984 mentioned in Memo No. 1647 dated 24.02.1984 and they have further ignored the legal position and provision that at no stretch of imagination the petitioner can be detained beyond a span of 25 years and has to be released in any case and further while considering the fact that the grounds taken in the impugned order dated 25.03.2026 is non-est and shows complete non-application of mind.

- b) To Declare and hold that the action of the respondents is arbitrary and illegal for not considering the fact that petitioner has already completed more than 26 years of actual custody and more than 29 years of custody including remission, and has fulfilled the terms and conditions under the 1984 Policy, which is actually applicable in the case of the petitioner. Moreover, even under the later policy i.e. the 2007 Policy, thus entitled to release from custody in any case, particularly when the grounds taken by the respondents in the impugned order available to them under the 1984 policy and those grounds are further*

non-est.

- c) *To Declare and hold that the case of the petitioner is governed by the Premature Release Policy contained in Memo No. 1647 dated 24.02.1984, which was in force on the date of judgement of conviction and sentence of the petitioner.*
- d) *Issue a writ of Mandamus directing the respondents to forthwith reconsider the case of the petitioner for premature release strictly in accordance with the 1984 Policy and/or direct the respondents to release the petitioner from custody considering the fact that the petitioner is not only fulfilling all requisite conditions as prescribed under the applicable 1984 policy but is also fit to be released even as per the present applicable policy i.e. 2007 policy which though will not apply in case of the petitioner but provides for release of an accused suffering life imprisonment after completion of 25 years in any case.*

AND/OR

For issuance of any other writ(s), order(s) or direction(s) which Your Lordship may deem fit and proper in the fact and circumstances of the case.

3. The factual aspects of the case reveal that the petitioner was an accused in Lower Bazar P.S. Case No. 12/99 in which it has been alleged that the petitioner who was lodged in Birsa Munda Central Jail, Ranchi had, along with the other accused persons, committed an assault upon an inmate of the jail, namely, Sudhir Singh @ Bhoma which resulted in his death. On conclusion of the trial in S.T.

No. 443/99, the petitioner was convicted by the learned trial court for the offences under Sections 302/34 and 307/34 IPC vide judgment dated 22.03.2002 and was sentenced to death. An appeal was preferred by the petitioner being Cr. Appeal (DB) No. 166/2002 which was dismissed on 29.11.2002 by confirming the conviction of the petitioner but modifying and reducing the sentence to rigorous imprisonment for life. Being aggrieved, the petitioner had preferred Criminal Appeal No. 622/2003 before the Hon'ble Supreme Court which, however, was dismissed vide judgment dated 30.04.2004. It has been stated that the Prisoner Welfare Officer, Jail, Ranchi vide Letter No. 969 dated 16.03.2018 directed the Superintendent, Central Jail, Dumka to submit proposal of life convicts eligible for premature release in terms of the 1984 Policy pursuant to which, the Superintendent, Central Jail, Dumka vide Letter No. 1178 dated 19.03.2018 furnished a list of convicted prisoners who have completed 14 years of actual custody and 20 years of custody including remission to the Prisoner Welfare Officer, Jail, Ranchi. In the said list, the name of the petitioner figured at sl. no. 24. In terms of the Policy of 1984, the petitioner had made an application for premature release before the Superintendent, Central Jail, Dumka and the same was forwarded vide letter dated 04.06.2018 to the Inspector General of Prisons, Jharkhand, Ranchi to take necessary action for premature release of the petitioner. Vide Memo No. 140 dated 11.08.2017, the Principal Probation Officer, Begusarai had submitted his report to the Superintendent, Birsa Munda Central Jail, Hotwar, Ranchi in which it was observed that considering the age of the petitioner, his responsibilities towards his families and the favorable opinion expressed by the villagers and the society, it was expected that the petitioner would lead the life of a good citizen and contribute positively to his family and

society upon release. The Probation Officer, Ranchi vide Letter No. 344 dated 26.08.2017 submitted his report to the Superintendent, Lok Nayak Jai Prakash Narayan Central Jail, Hazaribagh after conducting spot inspection at the petitioner's place of residence and it has been recorded in the said report that the petitioner has been acquitted in all other cases and the benefit of premature release may appropriately be extended to him. It has been stated that vide Letter No. 4150/VO dated 30.08.2017, the Superintendent of Police, Begusarai addressed a letter to the Superintendent, Lok Nayak Jai Prakash Narayan Central Jail, Hazaribagh sending a report with regard to the petitioner's premature release and its likely impact on society. The said communication enclosed the enquiry report submitted by the Police Inspector, Matihani P.S. vide Memo No. 854 dated 04.08.2017 where it was clearly reported that the villagers of the concerned area had expressed no objection to the consideration of the petitioner's case for premature release. The matter regarding the premature release of the petitioner was considered by the State Sentence Review Board in its meeting held on 29.09.2018, but, the plea for premature release of the petitioner was declined vide Memo No. 11/Prison-01/2016/5454 dated 29.09.2018. The petitioner had preferred a writ application before this Court being W.P. (Cr.) No. 412 of 2018, but the same was disposed of on 19.10.2022 and the matter was remanded to the State Sentence Review Board to consider the case of the petitioner in light of the judgment passed in W.P. (Cr.) No. 14 of 2021 and its analogous cases as well as the case of ***State of Haryana & Ors. v. Jagdish*** reported in **(2010) 4 SCC 216**. When the order dated 19.10.2022 passed in W.P. (Cr.) No. 412 of 2018 was not complied with, the petitioner had preferred a contempt application being Cont. Case (Cvl.) No. 209 of 2023 and during the pendency of the said application, the State Sentence Review Board had passed an order once again rejecting the claim

for premature release of the petitioner vide Memo No. 11/Prison/05/2021/2785 dated 22.06.2023. This order of the State Sentence Review Board was challenged by the petitioner in W.P. (Cr.) No. 530 of 2024 which, however, was dismissed vide order dated 12.12.2025. The proposal for premature release of the petitioner was once again placed before the State Sentence Review Board which passed an order rejecting such prayer on 01.09.2025 which was the subject matter of challenge in W.P. (Cr.) No. 182 of 2026 and during the pendency of the said writ application, the prayer for premature release of the petitioner was rejected once again vide Notification No. 1262 dated 25.03.2026 which led to withdrawal of the writ application with a liberty to challenge the notification dated 25.03.2026 consequent to which, the present writ application has been preferred challenging the notification dated 25.03.2026.

4. It has been submitted by Mr. Ajit Kumar, learned senior counsel for the petitioner that the State Sentence Review Board has passed the order dated 25.03.2026 rejecting the claim for premature release of the petitioner without any valid reasons. The various orders of the State Sentence Review Board showing disinclination to release the petitioner appears to walk on the well trodden path oblivious to the subsequent developments in which the petitioner has been acquitted in the case instituted for escaping from judicial custody. It has been submitted that the case of the petitioner is governed by the 1984 policy of the State of Bihar which mandated release of a convict on completion of 14 years of actual custody and 20 years of custody with remission and the matter was remanded back to the State Sentence Review Board in W.P. (Cr.) No. 412 of 2018, and re-consideration of the case of the petitioner was directed to be made on amongst other grounds to the 1984 Policy. Mr.

Ajit Kumar, learned senior counsel has submitted that even if it is assumed that the case of the petitioner is covered by the 2007 Policy of the State of Jharkhand, in such circumstance also, the petitioner is bound to be released as he has already crossed the maximum limit of 25 years with remission as envisaged in the said policy. It has been submitted that the petitioner is aged more than 65 years and is suffering from various diseases and has also undergone coronary artery bypass grafting at AIIMS.

5. Learned AC to Sr. A.A.G. has submitted that the petitioner is a gangster who was sentenced to death for committing the murder of a fellow prisoner which was commuted to rigorous imprisonment for life in Cr. Appeal (DB) No. 166/2022. The prayer for premature release of the petitioner has been rejected on several occasions by the State Sentence Review Board and lastly it was rejected on 25.03.2026 on the ground that if released, there is a strong possibility of a gang war and disturbance of public peace and tranquility. It has been submitted that completing 14 years of actual custody and 20 years of custody with remission would not automatically lead to premature release of the petitioner and such power lies with the State Sentence Review Board which uses its discretion on proper appreciation of the materials available on record. The 1984 Policy of the State of Bihar would have no relevance in view of the subsequent notifications issued by the State of Jharkhand in 2003, 2007, 2011 and 2013. It has been submitted that though a plea of the petitioner suffering from various ailments has been taken, but the same is of no consequence since adequate medical facilities is being provided to the petitioner. It has, therefore, been prayed that the instant writ application be dismissed.

6. I have heard the learned counsel for the respective sides and have also perused the affidavits on record.

7. Before embarking on a threadbare discussion of the case of the petitioner, I must indicate that the petitioner has completed 26 years of actual custody and 29 years of custody with remission.

8. It is the consistent case of the petitioner that he is entitled to premature release as a matter of right under the 1984 policy of the State of Bihar which was prevalent when the petitioner was convicted and his appeal was dismissed up to the Hon'ble Supreme Court and the petitioner would have been eligible to be released under the 1984 Policy and if in the alternative, it is held that the 2007 Policy of the State of Jharkhand is applicable, the benchmark for mandatory release having been fulfilled, he is bound to be released prematurely from custody.

9. Since the 1984 Policy of the State of Bihar and the 2007 Policy of the state of Jharkhand holds prominence, it would be imperative to refer to the provisions of the said policies.

10. The conditions in the 1984 Policy dated 24.02.1984 obligating premature release of a convict translated in English reads as follows:

“(i) In terms of Section 428 of the Cr.P.C. the benefit of set off shall not be given to the convicts which would mean that the period of custody undergone by a convict during investigation and trial would not be set off from 20 years of custody.

(ii) After an accused has been convicted and sentenced to life imprisonment in which one of the sentence includes a sentence of death and where the death sentence has been reduced to life imprisonment and where such sentence has been imposed on or after 18.12.1978 such

convict shall be released provided that;

(a) He has completed 14 years in custody after his conviction.

(b) The total period completed in custody is 20 years including remission.”

11. This Court in a batch of writ applications being W.P. (Cr.) No. 262 of 2014 while considering the 1984 Policy, had made the following observations:

“The gist of the resolution noted above would therefore mean that a convict is entitled for premature release provided he remains in custody for 14 years after his conviction and 20 years including remission.

*A subsequent resolution bearing resolution no. 3115 dated 25.05.1985 was issued by the State of Bihar on consideration of the judgment rendered by the Hon’ble Supreme Court in the case of **Bhagirath versus Administration of Delhi**, wherein the benefit of set off and the period the convict has remained in custody during investigation and trial shall be adjusted/set off from the period of life imprisonment. Thus it would ultimately mean that a convict who has completed 14 years of actual custody and 20 years of custody with remission shall be entitled to premature release in terms of the policy dated 24.02.1984. Resolution was taken by the State of Jharkhand dated 18.04.2007 pursuant to the judgment rendered by the Hon’ble Supreme Court in the case of **Laxman Naskar (supra)** in which the constitution of the State Sentence Review Board was formulated and the factors which would entail consideration of premature release of a convict was also enumerated. This consideration was made applicable only to those convicts whose case falls u/s 433 (a) of the Cr.P.C. and who has completed 14 years*

of actual physical custody and 20 years of custody with remission. Subsequently a resolution dated 10.09.2009 was also issued with respect to a modification in Clause 3 (i) of the earlier resolution dated 18.04.2007.

Section 85 of the Bihar Reorganisation Act, 2000 reads as follows:-

85. Power to adapt laws.- *For the purpose of facilitating the application in relation to the State of Bihar or Jharkhand of any law made before the appointed day, the appropriate Government may, before the expiration of two years from that day, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.*

Explanation.- In this section, the expression “appropriate Govern-ment” means as respects any law relating to a matter enumerated in the Union List, the Central Government, and as respects any other law in its application to a State, the State Government.

Section 85 thus does not abrogate or seize the enforceability of any law as was prevailing in the State of Bihar prior to creation of the Successor State of Jharkhand. Section 2 (f) of the Bihar Reorganisation Act defines law which reads as under:-

Section 2 (f) *“law” includes any enactment, ordinance, regulation, order, by-law, rule, scheme, notification or other instrument having,*

immediately before the appointed day, the force of law in the whole or in any part of the existing State of Bihar.

The resolution dated 24.02.1984 cannot be said to be merely a letter as the same was the basis for releasing convicts prematurely on the convict having fulfilled the criteria of remaining in custody for the period denoted in the same. Thus what was made operative by the State of Bihar w.e.f. 24.02.1984 was a resolution which continued to hold the field till a resolution was taken by the State of Jharkhand on 18.04.2007. The conviction of the petitioners was after the 1984 policy came into being and prior to the policy of the State of Jharkhand dated 18.04.2007 and as such the case of the petitioners are clearly to be guided by the 1984 policy.

*In the case of **State of Haryana and Others versus Jagdish** reported in (2010) 4 SCC 216, since there was conflicting judgments the same was referred to a three Judges Bench which held as follows:-*

38. *In view of the above, it is evident that the clemency power of the executive is absolute and remains unfettered for the reason that the provisions contained under Article 72 or 161 of the Constitution cannot be restricted by the provisions of Sections 432, 433 and 433-A CrPC though the authority has to meet the requirements referred to hereinabove while exercising the clemency power. To say that clemency power under Articles 72/161 of the Constitution cannot be exercised by the President or the Governor, as the case may be, before a convict completes the incarceration*

period provided in the short-sentencing policy, even in an exceptional case, would be mutually inconsistent with the theory that clemency power is unfettered.

44. *Liberty is one of the most precious and cherished possessions of a human being and he would resist forcefully any attempt to diminish it. Similarly, rehabilitation and social reconstruction of a life convict, as objective of punishment become of paramount importance in a welfare State. “Society without crime is a utopian theory.” The State has to achieve the goal of protecting the society from the convict and also to rehabilitate the offender. There is a very real risk of revenge attack upon the convict from others. Punishment enables the convict to expiate his crime and assist his rehabilitation. The remission policy manifests a process of reshaping a person who, under certain circumstances, has indulged in criminal activity and is required to be rehabilitated. Objectives of the punishment are wholly or predominantly reformatory and preventive.*

49. *This Court in Mahender Singh has taken note of the provisions of the 1894 Act and the Rules framed thereunder as well as the relevant paragraphs of the Punjab Jail Manual. Section 59(5) of the 1894 Act, enables the Government to frame rules for “award of marks and the shortening of sentences”. The Rules define prisoner as including a person committed to prison in default of furnishing security to keep peace or be of good behaviour. The Rules further provide for classification of prisoners according*

to the intensity and gravity of the offence. According to the classification of prisoners, Class 1 prisoners are those who had committed heinous organised crimes or specially dangerous criminals. Class 2 prisoners include dacoits or persons who commit heinous organised crimes. Class 3 prisoners are those who do not fall within Class 1 or Class 2. Rule 20 thereof provides that life convict being a Class 1 prisoner if earned such remission as entitles him to release, the Superintendent shall report accordingly to the local Government with a view to the passing of orders under Section 401 CrPC. Rule 21 provides that save as provided by Rule 20, when a prisoner has earned such remission as entitles him to release, the Superintendent shall release him. The instant case falls in Class 3, not being a case of organised crime or by professionals or hereditary or specially dangerous criminals.

50. *Undoubtedly, the aforesaid Rules are applicable in Haryana in view of the States Reorganisation Act. These are statutory rules, not merely executive instructions. Therefore, a “lifer” has a right to get his case considered within the parameters laid down therein.*

53. *The right of the respondent prisoner, therefore, to get his case considered on a par with such of his inmates, who were entitled to the benefit of the said policy, cannot be taken away by the policy dated 13-8-2008. This is evident from a bare perusal of the recitals contained in the policies prior to the year 2008,*

which are referable to Article 161 of the Constitution. The High Court, therefore, in our opinion, was absolutely justified in arriving at the conclusion that the case of the respondent was to be considered on the strength of the policy that was existing on the date of his conviction.

54. *The State authority is under an obligation to at least exercise its discretion in relation to an honest expectation perceived by the convict, at the time of his conviction that his case for premature release would be considered after serving the sentence, prescribed in the short-sentencing policy existing on that date. The State has to exercise its power of remission also keeping in view any such benefit to be construed liberally in favour of a convict which may depend upon case to case and for that purpose, in our opinion, it should relate to a policy which, in the instant case, was in favour of the respondent. In case a liberal policy prevails on the date of consideration of the case of a “lifer” for premature release, he should be given benefit thereof.*

*Thus in the case of **Jagdish** (supra) it was categorically laid down that the policy which was prevailing on the date of consideration for premature release of a life convict the benefit of the same should be given to the convict.*

*In the case of **Union of India versus V. Sriharan alias Murgan and Others** reported in **2016 (1) JLJR 121 (SC)** the Constitution Bench held as follows:-*

236. *The power under Sections 432/433 CrPC*

*and the one exercisable under Articles 72 and 161 of the Constitution, as laid down in **Maru Ram** (supra) are streams flowing in the same bed. Both seek to achieve salutary purpose. As observed in **Kehar Singh** (supra) in clemency jurisdiction it is permissible to examine whether the case deserves the grant of relief and cut short the sentence in exercise of Executive Power which abridges the enforcement of a judgment. Clemency jurisdiction would normally be exercised in the exigencies of the case and fact situation as obtaining when the occasion to exercise the power arises. Any order putting the punishment beyond remission will prohibit, exercise of statutory power designed to achieve same purpose under Sections 432/433 CrPC. In our view, Courts cannot and ought not deny to a prisoner the benefit to be considered for remission of sentence. By doing so, the prisoner would be condemned to live in the prison till the last breath without there being even a ray of hope to come out. This stark reality will not be conducive to reformation of the person and will in fact push him into a dark hole without there being semblance of the light at the end of the tunnel.*

238. *The law on the point of life imprisonment as laid down in **Godse's case** (supra) is clear that life imprisonment means till the end of one's life and that by very nature the sentence is indeterminable. Any fixed term sentence characterised as minimum which must be undergone before any remission could be considered, cannot affect the character of life*

imprisonment but such direction goes and restricts the exercise of power of remission before the expiry of such stipulated period. In essence, any such direction would increase or expand the statutory period prescribed under Section 433-A of Cr.P.C. Any such stipulation of mandatory minimum period inconsistent with the one in Section 433-A, in our view, would not be within the powers of the Court.

Our answer to Sub Question (b) of Question in para 52.1 is:

Question b: *Whether as per the principles enunciated in paragraphs 91 to 93 of **Swamy Shraddananda (2)**, a special category of sentence may be made for the very few cases where the death penalty might be substituted by the punishment for imprisonment for life or imprisonment for a term in excess of fourteen years and to put that category beyond application of remission?*

Answer. *In our view, it would not be open to the Court to make any special category of sentence in substitution of death penalty and put that category beyond application of remission, nor would it be permissible to stipulate any mandatory period of actual imprisonment inconsistent with the one prescribed under Section 433-A of Cr.P.C.*

It was held that the Courts cannot and ought not deny to a prisoner the benefit to be considered for remission of sentence.

The 1984 policy was under consideration by this Court in W.P.(Cr.) No. 40 of 2011 in which it was held that the policy decision of 1984 remained operative till

the new policy was framed in the year 2007 by the State of Jharkhand and thereafter a direction was given to the State Sentence Review Board to consider the case of the said convict for his premature release in light of the policy decision of 1984. The said order was affirmed up to the Hon'ble Supreme Court.

The case of the petitioners in W.P.(Cr.) No. 572 of 2015 is slightly different to the other cases as the petitioners have claimed remission for the period 2004-2010. It appears on the basis of the counter affidavit that the sentence of the petitioners were enhanced from R.I for life to death sentence which was subsequently commuted by the Hon'ble Supreme Court to R.I. for life. The period during which the sentence of death was in operation the petitioners were kept in separate cells and therefore the conditions necessary for grant of remission could not be considered as the Jail Authorities did not have the opportunity to watch the conduct of the petitioners on the various parameters which are laid down in the Jail Manual itself for grant of remission to a convict.

In such fact situation, therefore, the prayer of the petitioners in W.P.(Cr.) No. 572 of 2015 with respect to grant of remission for the period 2004-2010 cannot be acceded to and the same is rejected.

Thus on consideration of the entire facets of the case it is held that the case of the petitioners shall be guided by the 1984 policy and no other and therefore all these writ applications are disposed of with a direction to the respondents to consider the case of the petitioners for premature release strictly on the basis of 1984 policy dated 28.02.1984.”

12. The petitioner in his quest for premature release having been rejected by the State Sentence Review Board

dated 29.09.2018 had moved this Court in W.P. (Cr.) No. 412 of 2018 in which an order was passed by a Coordinate Bench on 19.10.2022, the operative portion of which reads as follows:

*“In view of the above facts, the matter is remitted back to the State Sentence Review Board to consider the case of the petitioner in the light of judgment passed in W.P. (Cr.) No. 14 of 2021 along with analogous cases as well as judgment of the Co-ordinate Bench and in the case of **“Jagdish”** (supra) and pass a fresh order.”*

13. Mention in the aforesaid order has been made of W.P. (Cr.) No. 14 of 2021 in which it has been held that the case of those petitioners for premature release had to be strictly considered in view of the 1984 Policy dated 28.02.1984 and such consideration has been qualified by para 46 of the case of **State of Haryana v. Jagdish** reported in **(2010) 4 SCC 216**. Para 46 of the said judgment reads as follows:

“46. At the time of considering the case of premature release of a life convict, the authorities may require to consider his case mainly taking into consideration whether the offence was an individual act of crime without affecting the society at large; whether there was any chance of future recurrence of committing a crime; whether the convict had lost his potentiality in committing the crime; whether there was any fruitful purpose of confining the convict any more; the socio-economic condition of the convict's family and other similar circumstances.”

14. The aforesaid judgment, therefore, lays down the parameters which are to be considered once a convict becomes eligible for premature release by virtue of his period

of actual custody and custody with remission.

15. Before the order dated 19.10.2022 passed in W.P. (Cr.) No. 412 of 2018 was considered by the State Sentence Review Board on several occasions, the prayer for premature release of the petitioner was rejected. In the Notification No. 5454 dated 29.11.2018, the prayer for premature release of the petitioner was rejected by the State Sentence Review Board on the following grounds:

“This board has considered the opinion of the Jail Superintendent, S.P., Probation Officer as well as the concerned learned court. The convict murdered another accused inside jail which is most heinous in nature. If the report clearly mentions that if prisoner is released there is strong possibility of gang war and disturbance in public peace of society. The convict also escaped from judicial custody. Hence the Board after considering all the facts and reports placed upon, decided to reject the premature release of the convict.”

16. Vide Notification No. 354 dated 21.01.2020, such prayer was once again rejected on the same grounds which form the basis for rejection on 29.11.2018 and the same reads as under:

“This board has considered the opinion of the Jail Superintendent, S.P., Probation Officer as well as the concerned learned court. The convict murdered another accused inside jail which is most heinous in nature. The report clearly mentions that if prisoner is released there is strong possibility of gang war and disturbance in public peace of society. The convict also escaped from judicial custody previously. Hence the Board after considering all the facts and reports placed upon, decided to reject the

premature release of the convict.”

17. After the order dated 19.10.2022 was passed in W.P. (Cr.) No. 412 of 2018, the case of the petitioner was once again considered by the State Sentence Review Board vide Notification No. 2785 dated 22.06.2023 and the following conclusion was arrived at:

“In the light of directions of Hon'ble court passed in W.P (Cr) No. 262/2014 Shahzad Ansari @ Sazad Ansari Vrs. The State of Jharkhand and others, this board has considered the opinion of the Jail Superintendent, S.P., Probation Officer as well as the concerned learned court. The convict murdered another accused inside jail which is most heinous in nature. The report clearly mentions that if prisoner is released there is strong possibility of gang war and disturbance in public peace of society. The convict also escaped from judicial custody previously.

Hence the Board after considering all the facts and reports placed upon, decided to reject the premature release of the convict.”

18. The case of the petitioner was again considered and the conclusion arrived at by the State Sentence Review Board is contained in Notification No. 4914 dated 14.08.2024 which is as follows:

“In the light of directions of Hon'ble court passed in W.P. (Cr.) No. 262/2014 Shahzad Ansari @ Sazad Ansari Vrs. The State of Jharkhand and others, this board has considered the opinion of the Jail Superintendent, S.P., Probation Officer as well as the concerned learned court. The convict murdered another accused inside jail which is most heinous in nature. The convict also escaped from

judicial custody previously. Hence the Board after considering all the facts placed upon, decided to reject the premature release of the convict.”

19. Vide Notification No. 1104 dated 19.02.2025, the prayer for premature release of the petitioner was rejected on the following grounds:

“This board has considered the opinion of the Jail Superintendent, S.P., Probation Officer as well as the concerned learned court. The convict murdered another accused inside jail which is most heinous in nature. In the report clearly mentions that if prisoner is released there is strong possibility of gang war and disturbance in public Peace of society. The convict also escaped from judicial custody previously. Hence the Board after considering all the facts and reports placed upon, decided to reject the premature release of the convict.”

20. The Notification No. 3503 dated 01.09.2025 projects a fresh consideration and rejection of the plea of premature release of the petitioner and the reasons enumerated are as follows:

“This Board has again considered the case of Anil Sharma as per the guidelines of the State Government, in terms and conditions enumerated in Sankalp No, 2307 dated 26.05.2011, which was issued after the consolidation of Sankalp No. 1315 dated 18.04.2007 and Sankalp No. 3638 dated 10.09.2009. The Review Board, after due consideration, has come to the conclusion that the case of convict Anil Sharma is not fit for granting the benefit of premature release on the following grounds:

This Board has considered the opinions of the

Jail Superintendent, the Superintendent of Police, the Probation Officer and the concerned learned Court.

The convict committed the heinous offence of murdering another inmate inside the jail. The reports clearly mention that, if released, there is a strong possibility of gang war and disturbance of public peace and tranquility in society. It has also been noted that the convict had previously escaped from judicial custody. Hence, after considering all the facts and reports placed before it, the Board has decided to reject the premature release of the convict.”

21. The Notifications dated 22.06.2023 and 19.02.2025 were challenged in W.P. (Cr.) No. 530 of 2024 which, however, was dismissed vide order dated 12.12.2025 on the following grounds:

“8. So far as the judgment in the case of Sukhdev Yadav @ Pehalwan vs. State of (NCT of Delhi) and Others reported in 2025 INSC 969 (supra) is concerned, the facts of that case is entirely different from the facts of this case as unlike that case, the Life Imprisonment in this case is Life Imprisonment simpliciter which means a sentence for the entire life of the prisoner; whereas in the case of Sukhdev Yadav @ Pehalwan, it was the Life Imprisonment for a fixed period of 20 years. As the undisputed fact remains that in this case, the Life Imprisonment was the Life Imprisonment simpliciter, which means the sentence for the entire life of the prisoner and the Sentence Review Board has rejected the case of the petitioner for premature release from the custody for sound and cogent

reasons. Therefore, this Court is of the considered view that there is no justifiable reason to interfere with Annexure 5 of this Writ Petition in exercise of its power under Article 226 of the Constitution of India.”

22. The Notification No. 1262 dated 25.03.2026 is impugned to the present writ application and the reasons for rejection of the plea of the premature release of the petitioner is reproduced below:

“This Board has again considered the case of Anil Sharma as per the guidelines of the State Government, in terms and conditions enumerated in Sankalp No. 2307 dated 26.05.2011, which was issued after the consolidation of Sankalp No. 1315 dated 18.04.2007 and Sankalp No. 3638 dated 10.09.2009. The Review Board, after due consideration, has come to the conclusion that the case of convict Anil Sharma is not fit for granting the benefit of premature release on the following grounds:

This Board has considered the opinions of the Jail Superintendent, the Superintendent of Police, the Probation Officer and the concerned learned Court.

The convict committed the heinous offence of murdering another inmate inside the jail. The reports clearly mention that, if released, there is a strong possibility of gang war and disturbance of public peace and tranquility in society. It has also been noted that the convict had previously escaped from judicial custody. Hence, after considering all the facts and reports placed before it, the board has decided to reject the premature release of the

convict.

Therefore, after considering all the facts and reports placed before it, the board does not find it appropriate to grant premature release to the convict and according to the Jail Manual 2025, Rule 532(B)7(d) and rejects the same.”

23. The factors which are to be considered for release of a convict prematurely as laid down in the case of ***State of Haryana v. Jagdish (supra)*** are as follows:

- 1. Whether the offence was an individual act of crime without affecting the society at large?*
- 2. Whether there is any chance of further recurrence of committing a crime?*
- 3. Whether the convict has lost his potentiality in committing a crime?*
- 4. Whether any fruitful purpose will be served in confining the convict anymore?*
- 5. The socio-economic condition of the family of the convict has also to be taken into consideration.*

24. Based on these factors, the Probation Officer, Ranchi had submitted his report dated 18.09.2024 in which it has been stated that the petitioner is aged 63 years and is suffering from various ailments and any recurrence of committing a crime by the petitioner has been greatly reduced. The report indicates that the socio-economic condition of the petitioner is good as his family is involved in business activities including running of two hotels. The behavior of the petitioner inside the jail is cordial and he has been granted parole several times, but his conduct has remained satisfactory. The report goes on to add that the petitioner enthusiastically takes part in all the reformist activities conducted inside the jail. The earlier reports submitted by the Probation Officer are also not adverse to the

cause of the petitioner.

25. Adverting back to the impugned notification dated 25.03.2026, it transpires that the case of the petitioner for premature release has been rejected on the following grounds:

- (i) The petitioner had committed the murder of another inmate inside the jail.
- (ii) There is a strong possibility of gang war and disturbance of public peace and tranquility in society.
- (iii) The petitioner had previously escaped from judicial custody.

26. A fleeting reference in the said rejection has been made of the opinions of the Jail Superintendent, the Superintendent of Police, the Probation Officer and the concerned learned court without specifying the contents of the said opinions or giving reasons as to how there is still a possibility of gang war and disturbance of public peace and tranquility despite the report of the Probation Officer concluding otherwise. In fact, in all the notifications brought on record rejecting the case of the petitioner for premature release, a common theme is propagated which clearly speaks of a dearth of application of mind and the rejection orders are clothed in a straitjacket formula designed to reject the plea of premature release whatever be the circumstances.

27. Prior to the rejection of the case of the petitioner for premature release vide Notification No. 3503 dated 01.09.2025 either there was no reference of any notification/resolution or reference was made to the directions of this Court in W.P. (Cr.) No. 262 of 2014 (*Sahzad Ansari @ Sazad Ansari v. The State of Jharkhand & Ors.*) while considering the case of the petitioner for premature release. However, the State Sentence Review Board veered towards

the resolutions issued by the State of Jharkhand while considering the case for premature release of the petitioner from 01.09.2025 which is the date of issuance of Notification No. 3503 and the subsequent notifications including the impugned notification dated 25.03.2026 refers to the said resolutions.

28. In view of the change in course by the State Sentence Review Board to the subsequent notifications as enumerated above, the relevant provisions of the 2007 resolution has to be delved into. The resolution dated 18.04.2007 came into existence pursuant to the judgment of the Hon'ble Supreme Court in the case of **Laxman Naskar v. Union of India & Ors.** reported in **AIR 2000 SC 986** in which the constitution of the State Sentence Review Board was formulated and the eligibility criteria as well as the factors which would govern the case of the convicts for premature release were also enumerated therein. Clause (3) of the resolution dated 18.04.2007 assumes utmost significance and the same reads as under:

“ऐसे सभी आजीवन कारावास प्राप्त बंदी (पुरुष अथवा महिला) जिनका मामला दण्ड प्रक्रिया संहिता 3 के द्वारा आच्छादित हो. चौदह वर्ष की वास्तविक अवधि (पारेहार रहित) एवं परिहार की धारा 433 सहित बीस वर्ष की अवधि कारा में व्यतीत करने पर ही समयपूर्व रिहाई के पात्र होंगे।

परन्तु यह स्पष्ट किया जाता है कि उपरोक्त परिस्थिति में परिहार रहित चौदह वर्ष एवं परिहार सहित बीस वर्ष की अवधि कारा में व्यतीत कर लेने से ही बंदी स्वतः समयपूर्व कारा मुक्ति के हकदार नहीं हो जायेंगे बल्कि पक्ष को यह अधिकार होगा कि अपराध की प्रकृति, प्रवृत्ति एवं गंभीरता पर विचार कर उचित समय पर बंदी को छोड़ने का निर्णय ले सकेगा किन्तु किसी भी परिस्थिति में कारावधि परिहार सहित पच्चीस वर्ष से अधिक नहीं होगी।”

29. From the aforequoted provision, it would transpire

that in all cases of convicts who are governed by Section 433 Cr.P.C., 14 years of actual custody and 20 years of custody with remission will make them eligible for premature release subject to the fulfillment of other conditions like the nature of offence committed and the propensity to commit a crime if released prematurely amongst other conditions. However, in no circumstance, the period of custody with remission should exceed 25 years.

30. In the context of the provisions that the maximum period of detention as per the 2007 Policy is 25 years with remission and which is one of the grounds taken for premature release, reference is made to Para 47 of the writ petition which reads as follows:

“47. That the impugned order dated 25.03.2026 is bad and illegal on the ground having not been passed in view of the provisions and conditions as contained in the applicable state's policy of 1984 and also on the ground that it does not consider at all that even as per the latter policy of 2007 the petitioner shall have to be released when he has completed more than 26 years of actual custody and about 29 years of custody when period of remission shall be accounted.”

31. The reply in the counter affidavit filed by the State regarding para 47 of the writ application reads as under:

“(28) That in reply to para - 47, it is stated and submitted that order dt.- 25.03.2026, passed by the State Sentence Review Board after much scrutinizing of the case of petitioner, who is notorious gangster and had escaped from the jail.”

32. Though the impugned notification dated 25.03.2026 contains reference of Sankalp No. 2307 dated 26.05.2011, Sankalp No. 1315 dated 18.04.2007 and

Sankalp No. 3638 dated 10.09.2009, but barring Resolution No. 1315 dated 18.04.2007, none of the other resolutions have been brought on record.

33. The Resolution No. 3638 dated 10.09.2009 reveals that the part of Clause No. 3 of Resolution dated 18.04.2007 which is with respect to the mandatory condition that in no case a convict can be kept in custody if he has completed 25 years with remission stands deleted. In view of such deletion, Resolution No. 1315 dated 18.04.2007 and Resolution No. 3638 dated 10.09.2009 were consolidated into a common policy as contained in Resolution No. 2307 dated 26.05.2011 and this resolution does not contain the clause with respect to the mandatory release of a convict on completion of a particular period of custody with or without remission.

34. A transient mention has been made in the counter affidavit of the 2009 and 2011 resolutions without touching upon the contents of the same. When a plea had been made about the mandatory release of the petitioner, it was incumbent for the State authorities to counter the same if materials to the contrary are available, but making a vague reference in the affidavit not only obstructs the dispensation of justice but subserves the wrongdoer. The counter affidavit filed by the State in the present writ application is a glaring example of the casual manner in which the issues governing a particular case are handled totally oblivious to the necessity of pointing out a flaw/suppression on the part of the petitioner.

35. So far as the present writ application is concerned, the consideration which has to be made for premature release of the petitioner is based on a common strata be it the 1984 Policy of the State of Bihar or the 2007 and the subsequent policies of the State of Jharkhand. This is so on account of the observation made in W.P. (Cr.) No. 412 of 2018 wherein

consideration was directed to be made in the case of the petitioner in the light of the judgment passed in W.P. (Cr.) No. 14 of 2021 and its analogous cases as well as in the case of ***State of Haryana v. Jagdish (supra)***. The various parameters laid down in para 46 of the case of ***Jagdish (supra)*** are in consonance with the 2007 Policy of the State of Jharkhand and, therefore, at this stage much cannot be read into the impugned notification dated 25.03.2026 as to which of the policy would gain prevalence.

36. As it has been noticed above, the impugned notification dated 23.03.2026 so far as the petitioner is concerned, is almost verbatim the earlier notifications. The said notification speaks about the escape from judicial custody by the petitioner, though in the case instituted for such criminal act the petitioner had already been acquitted by the learned Appellate Court in Criminal Appeal No. 184 of 2010 vide judgment dated 25.02.2014 giving him the benefit of doubt. The propensity to commit a crime once prematurely released, as per the report of the Probation Officer, has been greatly reduced and it further appears that the petitioner has conducted himself immaculately whenever he has been granted parole. The socio-economic condition is also good and in fact there is nothing adverse in the report which would cause an impediment to the release of the petitioner. The reasons for rejection of the plea for premature release of the petitioner does not seem to be justifiable as the State Sentence Review Board seems to have treaded on the beaten path. The order seems to have been passed in a mechanical manner as neither it has discussed the reports which have formed the basis for rejection, nor it has made any attempts to analyze the reports and the essence of the order in fact gives a notion that it was preordained which would be particularly visible when the earlier orders of rejection are

perused.

37. Mr. Ajit Kumar, learned senior counsel for the petitioner has submitted that the long incarceration of the petitioner would be of prominence and the same should entail his release from custody by this Court and in support of which reference has been made to the case of **Rohit Chaturvedi v. State of Uttarakhand & Ors.** reported in **2026 SCC Online SC 865**. The relevant part of the said judgment is extracted herein below:

“8. All relevant considerations necessary for adjudicating the petitioner's entitlement to remission already being before this Court, we will now proceed to examine the same on merits.

8.1. *Firstly, the State Government of Uttarakhand had recommended the petitioner's premature release after considering the relevant factors pertaining to his incarceration and conduct. The learned Standing Counsel appearing for the State has also taken the stand before this Court that appropriate orders may be passed in the present case. Thus, the only impediment to the grant of remission is the refusal by the respondent-Union of India. The recommendation of the State assumes significance, as the State authorities are best placed to assess the petitioner's behaviour during custody, his reformation, institutional discipline, and the likelihood of his reintegration into society. The fact that the State Government, after evaluating the petitioner's case in its entirety, found him fit for premature release shows that the petitioner satisfies the parameters ordinarily relevant for consideration of remission. This assumes*

importance particularly because the State Government, being directly concerned with prison administration and the implementation of remission policies, has not found any reason to deny the petitioner the benefit of premature release. In fact, the petitioner's custody certificate dated 16.05.2025 specifically records that his conduct during incarceration has been good.

8.2. *Secondly, the petitioner has already undergone more than twenty-two years of incarceration. The petitioner having spent more than two decades in continuous custody, the sentence undergone by him is itself a relevant consideration while examining his entitlement to premature release/remission. The prolonged incarceration undergone by the petitioner demonstrates that he has already suffered the consequences of the conviction for an extensive duration and has remained subject to the rigors of imprisonment for a considerable part of his life.*

8.3. *Thirdly, one of the co-accused, namely, Amarmani Tripathi, has already been granted the benefit of premature release by the Government of Uttar Pradesh vide notification dated 24.08.2023 after undergoing approximately seventeen years of actual imprisonment and twenty years with earned remission. The petitioner's plea of parity is therefore founded on an admitted factual position arising out of the treatment accorded to another convict in the very same case. Despite this, the respondent-Union of India has opposed the petitioner's plea of premature release both in the impugned letter and*

before this Court by relying upon the role attributed to the petitioner in the offence. Once a co-accused in the very same offence arising out of the same incident has been granted the benefit of premature release after undergoing a lesser period of incarceration, the denial of similar consideration to the petitioner necessarily requires the existence of cogent, rational, and clearly discernible distinguishing circumstances. In the absence of such reasons, differential treatment between co-accused would fall foul of the constitutional requirement of fairness and non-arbitrariness. No such reasons are forthcoming in the present case.

8.4. *Fourthly, the petitioner's case deserves to be considered in light of the reformatory theory underlying the modern criminal justice system. The object of punishment is not merely retribution, but also the reformation and rehabilitation of the offender so as to enable his eventual reintegration into society. In Mohd. Giasuddin v. State of A.P., (1977) 3 SCC 287 : 1977 SCC (Cri) 496, Krishna Iyer, J., while emphasizing the reformatory philosophy of sentencing, quoted George Bernard Shaw's observation that: "If you are to punish a man retributively, you must injure him. If you are to reform him, you must improve him and men are not improved by injuries." The learned Judge also observed that modern penology regards sentencing as a process of reshaping a person who has deteriorated into criminality and that society itself has a vital stake in the rehabilitation of the offender as a means of social defence. The reformatory approach to punishment, therefore, constitutes an*

integral component of criminal jurisprudence and remission policies are founded upon this principle. In the present case, the petitioner has undergone more than twenty-two (22) years of incarceration and his custody certificate records that his conduct during imprisonment has been good. The recommendation of the State Government for his premature release also indicates that the petitioner's conduct and rehabilitation have been found satisfactory by the competent authorities. Continued incarceration in such circumstances would run contrary to the reformatory object underlying remission and premature release policies particularly, when his co-accused has already been released.”

38. The facts underlying the said case was a recommendation made by the State Government for premature release of the convict which, however, was disallowed by the Central Government and the Hon’ble Supreme Court had passed an order for premature release of the convict by taking into consideration amongst other grounds, the period of custody undergone by the convict and one of the co-convict having already been granted the benefit of premature release by the State Government.

39. The aforesaid judgment also reminds the executive of its functions while considering a case of premature release and the relevant reads thus:

“7. Reverting to the present case, the faint ground invoked by the respondent-Union of India in support of rejection of the petitioner's plea for premature release is that the crime committed by the petitioner was a heinous one. We wish to make it clear that in a constitutional polity governed by the rule of

law, the denial of remission cannot rest solely on the ground of heinousness of the crime. As we have already stated above, remission is not an extension of the sentencing process, but a distinct executive function concerned with the present and future, namely, the prisoner's conduct, evidence of reformation, and prospects of reintegration into society. To predicate its denial only on the heinous nature of the offence is to collapse this distinction and to reconvert remission into a retrospective reaffirmation of guilt, which the criminal justice system has already adjudicated upon. The gravity and heinousness of the offence stand exhausted at the stage of sentencing and the judicial determination of punishment necessarily incorporates these considerations. A criminal justice system that refuses to look beyond the gravity of the offence to the offender's transformation will betray its reformatory ideal particularly at the remission stage. Justice does not permit permanent incarceration of an individual in the shadow of their worst act.

7.1. *The nature of the offence cannot, therefore, be the sole ground for denying remission. Emotive retribution is a course, incompatible with constitutional values. The decision on remission must emerge from a holistic assessment of the prisoner and after balancing societal interests with the prisoner's right to be considered for release on fair and reasonable criteria.*

7.2. *As Plato, the Greek Scholar and Philosopher, said any means, of word or deed, privilege or deprivation, that can be used to make the unjust man or the criminal, hate injustice and avoid recidivism are to be employed: the inculcation of an all*

but instinctive aversion to injustice “is quite the noblest work of law” (Thomas L. Pangle, The Laws of Plato, Basic Book Publishers, 1980). Thus, Plato reminds us to treat punishment as an instrument with a definitive end, namely, to produce in the offender an instinctive aversion to injustice sufficient to prevent recidivism. Reading this into the law of remission will yield a clear conclusion: a remission authority is not revisiting the gravity of the crime; it is assessing whether the purpose of punishment continues to subsist. In that sense, Plato supplies a legal test for remission decisions: If the offender's conduct and record in custody indicate that this “instinctive aversion to injustice” has taken root, then continued incarceration becomes unnecessary and arguably contrary to its own objective. The deprivation of liberty no longer serves correction but becomes retribution. In a liberal constitutional order, punishment and all its incidents, including remission, must necessarily be justified through reason and not outrage.

7.3. *Invoking Plato again, as this very court noted in Bilkis as follows:*

“1. ...punishment is to be inflicted, not for the sake of vengeance, for what is done cannot be undone, but for the sake of prevention and reformation (Thomas L. Pangle, The Laws of Plato, Basic Book Publishers, 1980). In his treatise, Plato reasons that the lawgiver, as far as he can, ought to imitate the doctor who does not apply his drug with a view to pain only, but to do the patient good. This curative theory of punishment likens penalty to medicine, administered for the good of the one who is being chastised (Trevor J. Saunders, Plato's Penal

Code : Tradition, Controversy, and Reform in Greek Penology, Oxford University Press, 1991).”

In Plato's rejection of punishment as retroactive vengeance lies the deep insight that the past cannot be changed. Instead, punishment is justified only insofar as it serves a future-oriented purpose, namely, prevention, reform, and the restoration of order. The comparison between the judge and the doctor is also significant. A doctor may incidentally cause pain through surgery or medicine, but the pain is not the objective, healing is. Likewise, punishment may involve suffering, but suffering itself is not normatively valuable. Its legitimacy comes only from its capacity to heal the individual and protect the polis (a political/civic community).”

40. The observations quoted above juxtaposed with the findings recorded by the State Sentence Review Board in the impugned notification dated 25.03.2026 would give a clear impression about the reticent hue of the order of rejection. The order has stifled and confined itself with the crime that had been committed and not to the present state of affairs regarding the socio-economic condition, propensity to commit a crime once released etc. This has been succinctly explained in the case of **Rohit Chaturvedi (supra)** in the following manner:

“As we have already stated above, remission is not an extension of the sentencing process, but a distinct executive function concerned with the present and future, namely, the prisoner's conduct, evidence of reformation, and prospects of reintegration into society. To predicate its denial only on the heinous nature of the offence is to

collapse this distinction and to reconvert remission into a retrospective reaffirmation of guilt, which the criminal justice system has already adjudicated upon.”

41. In view of the aforesaid discussion, the impugned notification dated 25.03.2026 is hereby quashed and set aside so far as the petitioner is concerned and the matter is remanded back to the State Sentence Review Board for a fresh consideration of the plea of the petitioner for premature release. The case of the petitioner shall be placed before the State Sentence Review Board positively on the next date fixed for the meeting whereupon the State Sentence Review Board shall pass a detailed and reasoned order in the light of the observations made in this order as well as the observations/directions of the Hon’ble Supreme Court in the case of **Rohit Chaturvedi**.

42. This application is **allowed**.

43. Pending I.A.(s), if any, stands closed.

(Rongon Mukhopadhyay, J.)

Jharkhand High Court, Ranchi
Dated the 13th Day of October, 2026.

Preet/N.A.F.R.

Uploaded on: 14 / 10 / 2026.