



2026:CGHC:24591-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 305 of 2026

Ekeswar Sharma S/o Late Krishna Prasad Sharma Aged About 55 Years Resident Of
Dhuma, Police Station- Dhamdha, District- Durg (C.G.)

... **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through The Under Secretary, Home (Jail) Department,
Mahanadi Bhawan, Mantralaya, Nawa Raipur, Atal Nagar, District- Raipur (C.G.)

2 - The Secretary Law Department, Nawa Raipur, Atal Nagar, District- Raipur (C.G.)

3 - The Director General Of Police (Jail) Raipur, District Raipur (C.G.)

4 - The Superintendent Of Jail Central Jail, Central Jail, Raipur, District- Raipur (C.G.)

... **Respondent(s)**

(Cause-title taken from Case Information System)

For Petitioner : Shri Anurag Khatri, Advocate
For Respondents : Shri Priyank Rathi, GA

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Justice Ravindra Kumar Agrawal
Order on Board

Per Ramesh Sinha, Chief Justice
18.06.2026

Heard Shri Anurag Khatri, learned counsel for the petitioner and
Shri Priyank Rathi, learned GA for the State.

1. Petitioner has filed the present petition for the following reliefs:-

“10.1 That this Hon'ble Court may kindly be pleased to set-aside/quash the
impugned order dated 22.03.2026 (Annexure P/1) and further be pleased to

direct the respondent authorities for remission of sentence imposed upon the petitioner and premature release him in accordance with statutory provisions of Section 432 of Cr.P.C. Section 473 of the BNSS read with Rule 358 and 359 of the Rules, 1968.

10.2 That this Hon'ble Court may kindly be pleased to direct the respondent authorities to proceed with the remission of sentence of the petitioner, in accordance with law laid down by the Hon'ble Court in matter "Ajit Kumar Sahu Vs. State of Chhattisgarh & others" bearing W.P.(Cr.) No. 255/2026 decided on 06.05.2026 (Annexure P/5).

10.3 That any other relief/order which may deem fit and just in the facts and circumstances of the case including award of the cost of the petition may be given."

2. Learned counsel for the petitioner would submit that the petitioner was convicted for offences punishable under Sections 302 (two counts) and 307 of the IPC in Sessions Trial No.30/2010 by judgment dated 31.01.2012 passed by the learned Additional Sessions Judge, Bhatapara. It is also submitted that the petitioner remained in custody since 11.05.2010 and has completed 16 years of actual incarceration. The conduct of the petitioner during incarceration has remained satisfactory and there is no adverse jail report against him. It is contended that considering the satisfactory conduct and the period already undergone, the Superintendent, Central Jail, Raipur forwarded the petitioner's case for consideration of remission and premature release. It is further submitted that the learned Sessions Court, while furnishing its opinion under Section 432(2) of the Cr.P.C., vide communication dated

23.11.2024, recommended grant of remission in favour of the petitioner after taking into consideration his conduct and period of incarceration. Learned counsel would further submit that despite favorable recommendation of the sentencing Court and the satisfactory jail record of the petitioner, respondent No.1 has rejected the claim of the petitioner by the impugned order dated 22.03.2026 without assigning any cogent reason. It is argued that the impugned order is arbitrary, mechanical and non-speaking, which reflects complete non-application of mind.

3. Reliance has been placed upon the decision of the Hon'ble Supreme Court in the case of **Rajo alias Rajwa alias Rajendra Mandal v. State of Bihar**, 2023 SCC OnLine SC 1068 and the decision rendered by the Division Bench of this Court in **Amarnath Pandey v. State of Chhattisgarh & Others** (W.P.(PIL) No.78 of 2017 decided on 02.05.2019). It is further submitted that in a similar matter, this Court in W.P.(Cr.) No.255 of 2026 (**Ajit Kumar Sahu v. State of Chhattisgarh & Others**) has interfered with an identical order rejecting remission. Therefore, it is prayed that the impugned order be quashed and the respondents be directed to grant remission and release the petitioner prematurely.

4. Per contra, learned State counsel would oppose the petition and submit that the petitioner stands convicted for two counts of murder and one count under Section 307 of the IPC and therefore, the offences committed by him are grave and heinous in nature. It is submitted that

remission and premature release are not matters of right and the State Government is empowered to exercise its discretion while considering such claims. It is argued that after considering the relevant reports and materials available on record, the competent authority has rejected the petitioner's claim and therefore, no interference is warranted in exercise of writ jurisdiction.

5. We have heard learned counsel for the parties and perused the record with utmost circumspection.

6. It is not in dispute that the petitioner was convicted by the judgment dated 31.01.2012 in Sessions Trial No.30/2010 and has remained in custody since 11.05.2010. The material placed on record reveals that the petitioner has completed more than sixteen years of actual incarceration. The record further demonstrates that petitioner's case was forwarded by the Superintendent, Central Jail, Raipur for consideration of remission and that the learned Additional Sessions Judge, after considering all relevant aspects, furnished a favorable recommendation dated 23.11.2024 supporting remission and premature release of the petitioner.

7. The principal question which falls for consideration is whether the rejection of the petitioner's claim by the impugned order dated 22.03.2026 is sustainable in law, or not.

8. Perusal of the impugned order reveals that while rejecting the petitioner's claim, the competent authority has failed to assign any

substantial reason as to why the favorable recommendation made by the sentencing Court and the satisfactory conduct of the petitioner during incarceration deserve to be ignored. The order does not indicate any independent application of mind to the relevant considerations governing exercise of powers under Section 432 of the Cr.P.C./Section 473 of the BNSS read with Rules 358 and 359 of the Chhattisgarh Prison Rules, 1968.

9. At this juncture, it is apposite to refer to Section 358(7)(vii) of the Chhattisgarh Jail Manual/ Chhattisgarh prison rules, 1968, which contemplates consideration of premature release of life convicts who have undergone the prescribed period of sentence, subject to assessment of their conduct, reformation, and overall suitability for reintegration into society. The said provision embodies the reformatory approach of penology and mandates that eligible prisoners be considered fairly and objectively. In the present case, the petitioner satisfies the eligibility criteria inasmuch as he has completed more than the requisite period of incarceration and has maintained good conduct, as also reflected from the recommendation of the Session Court. The adverse opinion of the state, in absence of supporting material, cannot override the statutory scheme and the reformatory intent underlying the said provision.

10. It is well settled that though remission under Section 432 of the Code of Criminal Procedure is discretionary, such discretion must be

exercised in a fair, reasonable and in non-arbitrary manner. The Hon'ble Supreme Court in the matter of **Laxman Naskar v. State of West Bengal**, (2000) 7 SCC 626, has laid down that while considering premature release, authorities must evaluate factors such as whether the offence affects society at large, the likelihood of recurrence, and the potential for convict's reformation. Similarly, in **Epuru Sudhakar v. Government of Andhra Pradesh**, (2006) 8 SCC 161 it has been held that orders relating to remission are subject to judicial review, if they are arbitrary, *mala fide*, or based on irrelevant considerations. Further, in **State of Haryana v. Jagdish**, (2010) 4 SCC 216, the Hon'ble Supreme Court has emphasized that the benefit of remission policy must be extended in a fair and consistent manner.

11. The philosophy underlying premature release is reformatory rather than retributive. Where a prisoner has undergone long incarceration, maintained satisfactory conduct, and received favorable reports from the competent authorities, he/she is entitled to objective and fair consideration under the applicable Rules. Once no statutory embargo applies and the relevant authorities have expressed no adverse opinion, denial of premature release based on an erroneous interpretation of the Rules is arbitrary and violative of Article 14 of the Constitution of India.

12. Applying the aforesaid principles to the facts of the present case, this Court is of the considered view that the rejection of petitioner's claim is based on mere conjectures and not on any cogent material. The

positive opinion of the sentencing Court and recommendation of the jail authorities have not been assigned due weightage. The impugned order, therefore, cannot be sustained in the eyes of law.

13. Considering his long period of incarceration, satisfactory conduct, favorable opinion of competent authority and absence of any statutory embargo, this Court holds that the petitioner is entitled to the benefit of premature release. The action of the respondent authorities in denying such benefit on an erroneous interpretation of the Rule is arbitrary and violative of Article 14 of the Constitution of India, as explained in **EP Royappa Vs State of Tamil Nadu**, reported in (1974) 4 SCC 3.

14. In view of foregoing discussion, also considering the petitioner's prolonged incarceration, satisfactory conduct, favorable opinion of the competent authorities, and in absence of any statutory bar, this Court holds that he is entitled to the benefit of premature release. Accordingly, present petition is **allowed**. The impugned order dated 22.03.2026 passed by respondent No.1 is hereby quashed and set aside. The respondents are directed to grant the benefit of remission to the petitioner and release him forthwith, if not required in any other case, subject to compliance with usual terms and conditions as may be imposed under the Chhattisgarh Jail Rules, 1968. No order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice