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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 368 of 2026

1 - Lalaram S/o Kanhaiya, Aged About 61 Years (At Present), Convicted Prisoner No. 9295/124, R/o Village- Ser, Police Station- Mahasamund, District- Mahasamund (C.G.)

... Petitioner

versus

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

2 - Prison Review Board, Through The Jail and Correction Services, Chhattisgarh, Raipur, District Raipur (C.G.)

3 - Director General (Prisons), Jail and Correction Services, Chhattisgarh, Jail Road, Raipur, District Raipur (C.G.)

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

... Respondents

(Cause title taken from Case Information System)

For Petitioner : Mr. Keshav Dewangan, Advocate.

For Respondents/State : Mr. Priyank Rathi, Govt. Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, C.J.

08-07-2026

1. Heard Mr. Keshav Dewangan, learned counsel for the petitioner. Also heard Mr. Priyank Rathi, learned Govt. Advocate, appearing for the State/respondents.

2. The present writ petition has been filed by the petitioner seeking the following relief(s):

“10.1 That, this Hon'ble Court may kindly be pleased to issue a writ in the nature of mandamus quashing the impugned order dated 22.03.2026 (Annexure P/1) passed by the Respondent No. 1.

10.2 That, this Hon'ble Court may kindly be pleased to issue a writ of mandamus directing the Respondent authorities to release the Petitioner forthwith, holding that he has served the required sentence and is entitled to remission on the basis of the positive recommendation of the learned Trial Court dated 06.09.2024.

10.3 That, this Hon'ble Court may kindly be pleased to grant any other relief, as it may deems fit and appropriate.”

3. Learned counsel for the petitioner submits that the petitioner is undergoing life imprisonment pursuant to his conviction under Section 302 of the Indian Penal Code, 1860 (in two counts), vide judgment dated 29.11.2011 passed by the learned 2nd Additional Sessions Judge, Mahasamund (C.G.) in Sessions Trial No.63/2010. It is submitted that the petitioner has remained in custody since 30.07.2010 and, as per the memo dated 06.09.2024, has undergone 14 years 16 days of actual

imprisonment and 18 years 6 months 8 days including earned remission, thereby becoming eligible for consideration of premature release under the provisions of the Chhattisgarh Prison Rules, 1968. Learned counsel further submits that the learned sentencing Court, vide memo dated 06.09.2024 (Annexure P/3), after considering the petitioner's conduct and antecedents, recommended his case for remission, observing that the petitioner has maintained reformatory conduct in jail, has no previous criminal antecedents, has not indulged in any criminal activity during incarceration and that no adverse economic, familial or social circumstances exist which would indicate any threat to society upon his release. The Superintendent, Central Jail, Raipur, has also recommended the petitioner's case for premature release on account of his satisfactory conduct.

4. It is further submitted that despite the favourable recommendations of the learned Trial Court and the jail authorities, the respondent-State, vide impugned order dated 22.03.2026 (Annexure P/1), rejected the petitioner's claim merely on the ground that the State Sentence Review Board found the case unsuitable for premature release. Learned counsel contends that the impugned order is arbitrary, non-speaking and suffers from complete non-application of mind, inasmuch as it neither records independent reasons nor deals with the specific findings recorded by the sentencing Court regarding the petitioner's reformation and suitability for release. It is argued that the State Government has mechanically accepted the opinion of the State Sentence Review Board without considering the mandatory factors

prescribed under Rule 358 of the Chhattisgarh Prison Rules, 1968, namely, the opinion of the sentencing Court, report of the Superintendent of Jail, antecedents of the prisoner, conduct during incarceration, possibility of rehabilitation and the likelihood of recurrence of crime. Learned counsel submits that rejection of remission solely on the basis of the gravity of the offence defeats the reformatory object of remission and is contrary to the principles laid down by the Hon'ble Supreme Court in **Laxman Naskar v. State of West Bengal**, reported in (2000) 7 SCC 626 and **Epuru Sudhakar v. Government of Andhra Pradesh**, reported in (2006) 8 SCC 161. Learned counsel emphasizes that the power under Section 432 Cr.P.C. / corresponding provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 is wide but must be exercised on objective and rational grounds, with proper recording of subjective satisfaction, which is absent in the present case.

5. In view of the aforesaid submissions, learned counsel prays that the impugned order dated 22.03.2026 (Annexure P/1) be quashed and the respondent authorities be directed to grant the benefit of remission and release the petitioner forthwith, if not required in any other criminal case.

6. Per contra, learned State counsel submits that the petitioner stands convicted for the offence punishable under Section 302 of the Indian Penal Code involving the murder of two persons, namely, Smt. Chemlibai and Johan Nayak, by assaulting them with a spade. It is submitted that considering the gravity and brutality of the offence, the State Sentence Review Board found the petitioner unsuitable for

premature release. It is further submitted that remission is not a matter of right but is an executive function governed by statutory rules and the competent authority, after considering the material placed before it, has rejected the petitioner's claim. The opinion of the sentencing Court and the recommendations of the jail authorities are only recommendatory in nature and are not binding upon the State Government. It is contended that the competent authority has exercised its discretion in accordance with law and no case for interference under Article 226 of the Constitution of India is made out. Accordingly, it is prayed that the writ petition deserves to be dismissed.

7. We have heard learned counsel for the parties and have carefully perused the pleadings, annexures and the material available on record.

8. At this juncture, it is apposite to refer to Section 358(7)(viii) 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 jail authorities. The adverse opinion of the District Magistrate, in absence of supporting

material, cannot override the statutory scheme and the reformative intent underlying the said provision.

9. It is well settled that though the power of remission under Section 432 of the Code of Criminal Procedure, 1973 / corresponding provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 is discretionary, such discretion must be exercised in a fair, reasonable and non-arbitrary manner. The Hon'ble Supreme Court in ***Laxman Naskar v. State of West Bengal*** (supra), 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 the convict's reformation. Similarly, in ***Epuru Sudhakar v. Government of Andhra Pradesh*** (supra) 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***, reported in ***(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.

10. In the present case, the petitioner has remained incarcerated since 30.07.2010 and has completed more than the requisite period prescribed under the Rules. The record further reveals that the learned sentencing Court, after independently assessing the petitioner's conduct and antecedents, has specifically recommended his premature release. The Superintendent, Central Jail, has also certified that the petitioner has maintained satisfactory and reformative conduct during incarceration. The petitioner has no previous criminal antecedents and

no adverse material has been placed on record indicating that his release would pose any threat to society.

11. The impugned order dated 22.03.2026 merely records that the State Sentence Review Board found the petitioner's case unsuitable for premature release. However, it does not disclose any independent application of mind nor does it assign cogent reasons for disagreeing with the favourable opinion of the learned sentencing Court and the jail authorities. The order does not indicate consideration of the mandatory parameters contemplated under Rule 358 of the Chhattisgarh Prison Rules, 1968. Mere reference to the gravity of the offence, without evaluating the petitioner's subsequent conduct, reformation and suitability for reintegration, cannot constitute a valid ground for rejecting premature release once the statutory eligibility has been satisfied.

12. The philosophy underlying premature release is reformatory rather than retributive. Long incarceration coupled with demonstrated good conduct and positive reports from competent authorities entitles a prisoner to objective and fair consideration under the applicable Rules. Once the statutory bar is found inapplicable, and the relevant authorities have not expressed any adverse opinion, denial of premature release on a misconceived interpretation of the Rule amounts to arbitrariness and offends the mandate of Article 14 of the Constitution of India.

13. Applying the aforesaid principles to the facts of the present case, this Court is of the considered view that the rejection of the 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 dated 22.03.2026 (Annexure P/1) cannot be sustained in the eyes of law and deserves to be quashed.

14. Consequently, the writ petition is **allowed**. The impugned order dated 22.03.2026 (Annexure P/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 the usual terms and conditions prescribed under the relevant Rules. No order as to costs.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice