



CGHC010276762026

2026:CGHC:31878-DB
NAFR

Digitally
signed by
ANURADHA
TIWARI
Date:
2026.07.29
09:49:38
+0530

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPCR No. 417 of 2026

Laxmi Dheemar S/o Shri Dashrath @ Jolo Dheemar Aged About 38 Years (About 20 Years At The Time Of Entry Into Jail), R/o Village Mudpar, Police Station Naila (Earlier It Was Police Outpost Naila, Police Station Janjgir), District Janjgir Champa Chhattisgarh

... Petitioner

versus

- 1 - State of Chhattisgarh Through The Secretary, Jail Department, Mantralaya, Mahanadi Bhawan, Raipur Chhattisgarh**
- 2 - The Under Secretary State Of Chhattisgarh, Jail Department, Mantralaya, Mahanadi Bhawan, Raipur Chhattisgarh**
- 3 - The Director General, Prisons And Correctional Services Chhattisgarh, Head Quarter - Prisons And Correctional Services Chhattisgarh, Raipur Chhattisgarh**
- 4 - The Jail Superintendent Central Jail, Bilaspur Chhattisgarh**

... Respondents

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Rishi Rahul Soni, Advocate
For Respondent-State	:	Mr. Soumya Rai, Deputy Government Advocate

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

Per Ramesh Sinha, Chief Justice

27.07.2026

- 1. Heard Mr. Rishi Rahul Soni, learned counsel for the petitioner.**
Also heard Mr. Soumya Rai, learned Deputy Government Advocate, appearing for the State/respondents.

2. Though the present writ petition is listed today as a fresh admission matter, learned counsel appearing for the parties submit that the controversy involved lies in a narrow compass and that one of the co-convicts/co-accused has already been granted the benefit of parole/temporary leave, therefore, with the consent of learned counsel for the parties, this Court proceeds to hear and finally dispose of the writ petition at the admission stage itself.
3. The petitioner has filed this petition under Article 226 of the Constitution of India, praying for following relief(s) :-

“10.1 The Hon'ble Court may kindly be pleased to call for entire records pertaining to the case of the petitioner for it's kind perusal;

10.2 The Hon,ble Court may kindly be pleased to issue a suitable writ, order or direction and quash/set-aside the order dated 15.01.2026 (Annexure P/1) issued/passed by the respondent no.2;

10.3 The Hon'ble Court may kindly be pleased to issue a suitable writ, order or direction commanding the respondent authorities to grant the petitioner remission under 473 of Bharatiya Nagrik Suraksha Sanhita 2023/432 of the Code of Criminal Procedure 1973 and under Rule 358 of C.G. Prisons Rule 1968 and to release the petitioner by granting remission of rest part of the sentence imposed upon the petitioner vide judgment of conviction and sentence dated 10.06.2009 passed by the Learned Additional

Session Judge Janjgir, District- Janjgir-Champa (C.G.) in Session Trial No. 162/2008; and

10.4 Any other relief, which this Hon'ble Court may deem fit and proper looking to the facts and circumstances of the case, may also kindly be granted in favour of the petitioner.”

4. Learned counsel for the petitioner submits that the petitioner is presently lodged in Central Jail, Bilaspur (C.G.) pursuant to the judgment of conviction and order of sentence dated 21.03.2025 passed by the learned Additional Sessions Judge, F.T.S.C. (POCSO), District Raigarh, whereby he has been convicted under Sections 363, 366 and 376(2)(n) of the Indian Penal Code, 1860 and Sections 5(l) punishable under Section 6 and 5(j)(ii) punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012. It is submitted that the petitioner has remained in judicial custody since 06.08.2023. Against the aforesaid judgment of conviction, the petitioner preferred Criminal Appeal No.955 of 2025, which has already been admitted by this Court vide order dated 27.06.2025 and is pending final adjudication.
5. Learned counsel would submit that the petitioner, having become eligible under the provisions of the Chhattisgarh Prisoners Leave Rules, 1989, submitted an application dated 01.12.2025 seeking temporary leave for a period of 14+2 days. The Superintendent, Central Jail, Bilaspur, after examining the petitioner's conduct and

eligibility, recommended the petitioner's case on 03.12.2025 and forwarded the same to the competent authority. However, the Superintendent of Police, by communication dated 10.02.2026, furnished an adverse recommendation, whereupon the Collector-cum-District Magistrate rejected the petitioner's application by the impugned order dated 11.03.2026.

6. Learned counsel further submits that the impugned order has been passed mechanically and without any independent application of mind. The competent authority has merely reproduced the opinion of the police authorities without objectively considering the petitioner's eligibility, his satisfactory conduct in jail, the favourable recommendation made by the Jail Superintendent and the underlying object of the Chhattisgarh Prisoners Leave Rules, 1989, namely, reformation, rehabilitation and preservation of family and social ties. It is argued that the adverse police report is based only upon a vague apprehension and does not disclose any specific material to demonstrate that the petitioner's temporary release would endanger public peace or interfere with the administration of justice. The competent authority has failed to record its own independent satisfaction and has mechanically acted upon the police opinion, thereby abdicating the statutory discretion vested in it under the Rules.
7. Learned counsel further submits that one of the co-convicts/co-accused arising out of the same Sessions Trial has already been

granted the benefit of temporary leave/parole by the competent authority. The petitioner is identically situated and there exists no distinguishing feature so as to deny him the same benefit. The impugned action, therefore, offends the doctrine of parity and results in hostile discrimination prohibited under Article 14 of the Constitution of India.

8. Learned counsel also submits that this Court has consistently held that where a statutory authority is required to exercise discretion under the Chhattisgarh Prisoners Leave Rules, such discretion must be exercised independently and on objective considerations and cannot be founded solely upon an adverse police recommendation. Reliance is also placed upon the order passed by this Court in W.P.(Cr.) No.107 of 2025, wherein this Court set aside the order of the State Government rejecting the petitioner's claim for remission and directed the competent authority to reconsider the matter afresh in accordance with law, reiterating that statutory powers affecting the liberty of a prisoner must be exercised objectively and on relevant considerations. The same principle squarely applies while considering an application for temporary leave under the Rules. It is, therefore, submitted that the impugned order dated 11.03.2026 is arbitrary, unreasonable and unsustainable in law and deserves to be quashed, with a consequential direction to grant the petitioner the benefit of temporary leave in accordance with the Chhattisgarh Prisoners Leave Rules, 1989.

- 9.** Per contra, learned State counsel opposed the writ petition and submitted that the petitioner has been convicted by the learned Additional Sessions Judge, F.T.S.C. (POCSO), District Raigarh, for the offences punishable under Sections 363, 366 and 376(2) (n) of the Indian Penal Code, 1860 and Sections 5(l) punishable under Section 6 and 5(j)(ii) punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012, and has been sentenced to undergo rigorous imprisonment for a maximum period of twenty years. It is submitted that although the petitioner's Criminal Appeal No.955 of 2025 has been admitted by this Court, neither the conviction nor the sentence has been suspended. Learned State counsel would contend that, considering the nature and gravity of the offences for which the petitioner stands convicted, the competent authority rightly exercised caution while considering the petitioner's request for temporary leave.
- 10.** It is further submitted that, in accordance with the procedure prescribed under the Chhattisgarh Prisoners Leave Rules, 1989, the competent authority called for a report from the police authorities, whereupon the Superintendent of Police, by communication dated 10.02.2026, did not recommend the petitioner's release on temporary leave. Acting upon the said report and the material placed before it, the Collector-cum-District Magistrate rejected the petitioner's application by order dated 11.03.2026. According to the learned State counsel, the adverse

opinion furnished by the police authorities constitutes relevant material for consideration while exercising discretion under the Rules, and no fault can be found with the decision-making process adopted by the competent authority.

11. Learned State counsel further submitted that the grant of temporary leave under the Chhattisgarh Prisoners Leave Rules, 1989 is neither automatic nor a matter of vested right, but is subject to the satisfaction of the competent authority regarding the suitability of the prisoner for temporary release. Merely because the petitioner has remained in custody since 06.08.2023 or has become eligible to apply under the Rules would not confer upon him an enforceable right to claim temporary leave. It is submitted that the competent authority has considered all relevant circumstances, including the adverse police recommendation, before rejecting the petitioner's application and the impugned order dated 11.03.2026 does not suffer from any illegality, arbitrariness or perversity warranting interference under Article 226 of the Constitution of India. While fairly conceding that one of the co-convicts/co-accused arising out of the same Sessions Trial has been granted the benefit of temporary leave/parole by the competent authority, learned State counsel submits that the claim of each prisoner is required to be considered on its own facts and merits and, therefore, the benefit extended to the co-convict does not ipso facto entitle the present petitioner to claim identical relief as a matter of right.

- 12.** We have heard learned counsel for the parties and have carefully perused the pleadings, annexures and the material available on record.
- 13.** The petitioner stands convicted by judgment dated 21.03.2025 passed by the learned Additional Sessions Judge, F.T.S.C. (POCSO), District Raigarh, for the offences punishable under Sections 363, 366 and 376(2)(n) of the Indian Penal Code, 1860 and Sections 5(l) punishable under Section 6 and 5(j)(ii) punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012, and is in judicial custody since 06.08.2023. It is not in dispute that the petitioner has preferred Criminal Appeal No.955 of 2025 challenging the judgment of conviction and the said appeal has already been admitted by this Court vide order dated 27.06.2025. The material placed on record further reveals that upon the petitioner submitting an application dated 01.12.2025 seeking temporary leave under the provisions of the Chhattisgarh Prisoners Leave Rules, 1989, the Superintendent, Central Jail, Bilaspur, after considering the petitioner's conduct and eligibility, recommended his case on 03.12.2025 and forwarded the same to the competent authority for appropriate consideration.
- 14.** The rejection of the petitioner's claim by the Collector-cum-District Magistrate vide order dated 11.03.2026 is primarily founded upon the adverse recommendation furnished by the Superintendent of

Police vide communication dated 10.02.2026. However, the impugned order does not disclose any independent application of mind by the competent authority nor does it record any objective material justifying denial of temporary leave to the petitioner. The rejection appears to be founded merely upon the opinion of the police authorities without independently examining the petitioner's conduct in jail, the favourable recommendation made by the Jail Superintendent or the object sought to be achieved under the Chhattisgarh Prisoners Leave Rules, 1989. This Court also takes note of the fact that one of the co-convicts/co-accused arising out of the same Sessions Trial has already been granted the benefit of temporary leave/parole by the competent authority. Although such grant does not automatically confer an indefeasible right upon the present petitioner, the principle of parity requires that similarly situated convicts be treated alike unless there exist distinguishing circumstances, which are conspicuously absent in the impugned order.

- 15.** At this juncture, it is apposite to refer to the scheme of the Chhattisgarh Prisoners Leave Rules, 1989, which has been enacted with the object of enabling eligible prisoners to maintain their family and social ties and to facilitate their reformation and rehabilitation by permitting temporary release subject to fulfilment of the prescribed conditions. The statutory scheme contemplates that every application for temporary leave shall be considered objectively on its own merits by the competent authority after

evaluating all relevant factors, including the prisoner's conduct, antecedents and other attending circumstances. In the present case, the petitioner's application had been favourably recommended by the Superintendent, Central Jail, Bilaspur, and there is no material on record to indicate that the petitioner had ever misused any liberty granted to him or that his temporary release would pose any real threat to public order or the administration of justice. In such circumstances, the adverse police recommendation, in the absence of any cogent or tangible supporting material and without independent consideration by the competent authority, cannot by itself constitute a valid ground for rejecting the petitioner's application for temporary leave under the Chhattisgarh Prisoners Leave Rules, 1989.

16. 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 non-arbitrary manner. The Hon'ble Supreme Court in ***Laxman Naskar v. State of West Bengal***, reported in **(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 the convict's reformation. Similarly, in ***Epuru Sudhakar v. Government of Andhra Pradesh***, reported in **(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***, 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.

17. This Court finds that an identical issue came up for consideration before this Court in ***Ajit Kumar Sahu v. State of Chhattisgarh, W.P.(Cr.) No.255 of 2026, decided on 06.05.2026***, wherein, while considering the claim of the petitioner therein for premature release under Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Rule 358 of the Chhattisgarh Prison Rules, 1968, the Coordinate Bench held that the philosophy underlying premature release is reformatory rather than retributive and that long incarceration coupled with demonstrated good conduct and positive reports from the competent authorities entitles a prisoner to objective and fair consideration under the applicable Rules. It was further held that once the statutory bar is found inapplicable and the competent authorities have not expressed any adverse opinion, denial of premature release on a misconceived interpretation of the Rules amounts to arbitrariness and offends the mandate of Article 14 of the Constitution of India.
18. The aforesaid principles, in the considered opinion of this Court, squarely apply to the facts of the present case. The petitioner has undergone more than 17 years and 06 months of actual imprisonment and has earned remission of 05 years, 11 months

and 17 days, thereby completing more than 23 years of imprisonment together with earned remission. Pursuant to the directions issued by this Court in W.P.(Cr.) No.107 of 2025, the learned First Additional Sessions Judge, Janjgir-Champa, again furnished a 'No Objection' opinion for grant of remission and the Jail Authorities also recommended the petitioner's case. Despite the aforesaid favourable materials, the respondent No.2 rejected the petitioner's claim by the impugned order dated 15.01.2026 merely by placing reliance upon Rule 358(6) of the Chhattisgarh Prison Rules, 1968, without objectively considering the petitioner's case in its proper perspective. The impugned decision, therefore, suffers from non-application of mind and is contrary to the law laid down by this Court in ***Ajit Kumar Sahu*** (supra).

19. Considering the long period of incarceration undergone by the petitioner, the remission earned by him, the favourable opinion of the learned Sessions Judge, the recommendation of the Jail Authorities and the earlier directions issued by this Court in W.P. (Cr.) No.107 of 2025, this Court is satisfied that the petitioner is entitled to the same relief as has been granted by this Court in ***Ajit Kumar Sahu*** (supra). The action of the respondent authorities in denying the benefit of premature release on an erroneous interpretation of Rule 358 of the Chhattisgarh Prison Rules, 1968, is arbitrary, unreasonable and violative of Article 14 of the Constitution of India, as explained by the Constitution Bench in ***E.P. Royappa v. State of Tamil Nadu, (1974) 4 SCC 3***.

20. In view of the foregoing discussion and following the law laid down by this Court in ***Ajit Kumar Sahu*** (supra), the present writ petition deserves to be and is hereby allowed. Consequently, the impugned order dated 15.01.2026 passed by respondent No.2 is quashed and set aside. The respondents are directed to grant the benefit of remission/premature release to the petitioner under Section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023 read with Rule 358 of the Chhattisgarh Prison Rules, 1968, and release him forthwith, if not required in any other case, subject to compliance with the usual terms and conditions applicable under the Rules.

21. There shall be no order as to costs.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice