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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 10.08.2026

\+ W.P.(CRL) 2875/2025 & CRL.M.A. 6180/2026

RAMESH .....Petitioner

Through: Ms. Sowjhanya Shankaran, Advocate with Mr. Siddharth Satija, Mr. Akash Sachan, Ms. Anuka Bachawat, Ms. Charu Sinha, Ms. Ragini Nagpal, Ms. Shrutika Pandey, Mr. Rahul and Mr. Arjun Chopra, Advocates.
Ms. Rebecca M. John, *Amicus-Curiae* with Ms. Anushka Baruah and Mr. Chinmay Kanojia, Advocates.

versus

STATE (NCT OF DELHI) & ANR. ....Respondents

Through: Mr. Sanjeev Bhandari, ASC for the State with Mr. Arjit Sharma and Ms. Sakshi Jha, Advocates.
Mr. Amol Sinha, ASC for the State with Mr. Kshitiz Garg, Advocate.

\+ W.P.(CRL) 578/2025 & CRL.M.A. 5268/2025, CRL.M.A. 10639/2025, CRL.M.A. 1327/2026, CRL.M.A. 1328/2026, CRL.M.(BAIL) 83/2026

TASLEEM ....Petitioner

Through: Mr. Sarthak Maggon, Advocate.
Ms. Rebecca M. John, *Amicus-Curiae* with Ms. Anushka Baruah and Mr. Chinmay Kanojia, Advocates.

versus

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STATE OF NCT OF DELHI …Respondent

Through: Mr. Sanjeev Bhandari, ASC for the State with Mr. Arjit Sharma and Ms. Sakshi Jha, Advocates. IS Deepanshu, P.S.: Anand Parbat.
Mr. Amol Sinha, ASC for the State with Mr. Kshitiz Garg, Advocate.

HON'BLE MR. JUSTICE A. J. BHAMBHANI

J U D G M E N T

A. J. BHAMBHANI, J.

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I. INTRODUCTION

> "… … *Capital punishment kills a man at once, but lifelong imprisonment kills him slowly. Which executioner is the more humane, he who kills you in a few minutes or he who drags the life out of you in the course of many years?*"
>
> - Anton Chekhov in 'The Bet'

The petitioners assail the rejection of their pleas seeking premature release, first by the Sentence Review Board ('SRB') *vidé* Minutes of Meetings dated 30.08.2024 and 18.09.2024, and thereafter by the Government of National Capital Territory of Delhi, Home (General) Department *vidé* common impugned order bearing No. F.18/102/2003/2024-II/HG/3026-27 dated 04.12.2024. As a consequence, the petitioners seek the relief of premature release from imprisonment/permanent remission of the life sentence awarded to them.

II. BRIEF BACKGROUND

2. The petitioner in W.P.(CRL) No.2875/2025 – **Ramesh s/o Jaswant** – stands convicted and is serving life imprisonment for offences punishable under sections 304-II/376/377/34 of the Indian Penal Code, 1860 ('IPC') in case FIR No.198/1992 registered at P.S.: Anand Parbat, Delhi. As of 03.01.2026, Ramesh had undergone *actual imprisonment of more than **31 years**, exclusive of remission. Including remission earned, the period of custody suffered by him exceeds **40 years***.

3. The petitioner in W.P.(CRL) No.578/2025 – **Tasleem s/o Islamuddin** – stands convicted and is serving life imprisonment for offences punishable under section 376(2)(g) of the IPC in case FIR No.571/1997 registered at P.S.: Kalyanpuri, Delhi. As of 06.10.2025, Tasleem had

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undergone *actual imprisonment of over **15 years**, exclusive of remission. Including remission, the period of custody suffered by him is over **19 years***.

4. By order dated 22.01.2026, this court appointed Ms. Rebecca M. John, learned senior counsel as *Amicus-Curiae* to assist the court in determining the true manner of *interpretation* and *application* of the policy governing remission and premature release as applicable to the State of Delhi, in light of the judicial precedents on the subject.

III. SUBMISSIONS ON BEHALF OF AMICUS-CURIAE

5. Drawing attention to the parent provision on which the issue hinges, Ms. John, learned *Amicus-Curiae* has submitted that section 432 of the Criminal Procedure Code 1973 ('Cr.P.C.'), [corresponding to section 473 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS')] permits the "appropriate Government" to *suspend* the execution of or *remit* the sentence (either in part, or wholly) awarded to a convict, with or without conditions; and that section 432(7) of the Cr.P.C. specifies as to which is the appropriate government for purposes of exercising this power. Section 432 of the Cr.P.C. reads as follows:

> ***432. Power to suspend or remit sentences.***—*(1) When any person has been sentenced to punishment for an offence, the appropriate Government may, at any time, without conditions or upon any conditions which the person sentenced accepts, **suspend** the execution of his sentence or **remit** the whole or any part of the punishment to which he has been sentenced.*
>
> *(2) Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government may require the presiding Judge of the Court before or by which the conviction was had or confirmed, to state his opinion as to whether the application should be granted or*

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refused, together with his reasons for such opinion and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the appropriate Government, not fulfilled, the appropriate Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police officer, without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(5) The appropriate Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence of fine) passed on a male person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and—

(a) where such petition is made by the person sentenced, it is presented through the officer in charge of the jail; or

(b) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.

(6) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property.

(7) In this section and in section 433, the expression "appropriate Government" means,—

(a) in cases where the sentence is for an offence against, or the order referred to in sub-section (6) is passed under, any law relating to a matter to which the executive power of the Union extends, the Central Government;

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(b) in other cases, the Government of the State within which the offender is sentenced or the said order is passed.

(emphasis supplied)

6. Attention has also been drawn to section 433 of the Cr.P.C. [corresponding to section 474 of the BNSS] which governs the power of the appropriate government to *commute* the sentence of convicts; and to section 433A of the Cr.P.C. [corresponding to section 475 of the BNSS] which places restrictions on the power of remission or commutation in certain cases. Sections 433 and 433A of the Cr.P.C. read as follows:

> *433. Power to commute sentence.—The appropriate Government may, without the consent of the person sentenced,* ***commute****—*
>
> *(a) a sentence of death, for any other punishment provided by the Indian Penal Code (45 of 1860);*
>
> *(b) a sentence of imprisonment for life, for imprisonment for a term not exceeding fourteen years or for fine;*
>
> *(c) a sentence of rigorous imprisonment, for simple imprisonment for any term to which that person might have been sentenced, or for fine;*
>
> *(d) a sentence of simple imprisonment, for fine.*
>
> *433A. Restriction on powers of remission or commutation in certain cases.—Notwithstanding anything contained in section 432, where a sentence of imprisonment for life is imposed on conviction of a person for an offence for which death is one of the punishments provided by law, or where a sentence of death imposed on a person has been commuted under section 433 into one of imprisonment for life, such person shall not be released from prison unless he had served at least fourteen years of imprisonment.*

(emphasis supplied)

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7. Furthermore, it has been pointed-out that the statutory and administrative instruments that govern premature release/permanent remission of the convicts in the State of Delhi are the following:

7.1. Order bearing No. F-18/5/94/Home (Genl) dated 16.07.2004 ('2004 Guidelines') issued by the Lieutenant Governor of the NCT of Delhi, relating to review of sentence awarded to life convicts, establishment of the SRB, and recommendations for premature release in appropriate cases; and

7.2. Chapter-XX of the Delhi Prison Rules, 2018 ('Delhi Prison Rules') titled 'Premature Release.'

8. The 2004 Guidelines *inter-alia* set-out the composition of the SRB, the eligibility criteria for premature release, the procedure for processing cases for consideration by the SRB, and the framework governing the SRB's recommendations to the competent authority. The relevant provisions of the 2004 Guidelines are reproduced hereinbelow:

> ***Eligibility for premature release***
>
> *III.1. Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433A Cr.PC shall be* ***eligible to be considered*** *for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e., without the remissions. It is however, clarified that completion of 14 years in prison* ***by itself would not entitle*** *a convict to automatic release from the prison and the* ***Sentence Review Board shall have the discretion to release a convict, at an appropriate time in all cases considering the circumstances in which the crime was committed and other relevant factors like****:*
>
> > *a) Whether the convict has* ***lost his potential for committing crime*** *considering his overall conduct in jail during the 14 year incarceration;*

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*b) The **possibility of reclaiming the convict** as a useful member of the society; and*

*c) **Socio-economic condition of the convict's family**.*

Such convict as stand convicted of a capital offence are prescribed the total period of imprisonment to be undergone including remission, subject to a minimum of 14 years of actual imprisonment before the convict prisoner is released. Total period of incarceration including remission in such cases should ordinarily not exceed 20 years.

Certain categories of convicted prisoners undergoing life sentence would be entitled to be considered for premature release only after undergoing imprisonment for 20 years including remissions. The period of incarceration inclusive of remissions even in such cases should not exceed 25 years. Following categories are mentioned in this connection.

a) Convicts who have been imprisoned for life for murder in heinous crimes such as murder with rape, murder with dacoity, murder involving an offence under the Protection of Civil Rights Act 1955, murder for dowry, murder of a child below 14 years of age, multiple murder, murder committed after conviction while inside the jail, murder during parole, murder in a terrorist incident, murder in smuggling operation, murder of a public servant on duty.

b) Gangsters, contract killers, smugglers, drug traffickers, racketeers awarded life imprisonment for committing murders as also the perpetrators of murder committed with pre-meditation and with exceptional violence or perversity.

c) Convicts whose death sentence has been commuted to life imprisonment.

III.2. All other convicted male prisoners not covered by section 433A Cr.PC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least 14 years of imprisonment inclusive of remission but only after completion of 10 years actual imprisonment i.e., without remissions.

III.3. The female prisoners not covered by section 433A Cr.PC undergoing the sentence of life imprisonment would be entitled to be considered for premature release after they have served at least

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10 years of imprisonment inclusive of remissions but only after completion of 7 years actual imprisonment i.e., without remissions.

III.4. Cases of premature release of persons undergoing life imprisonment before completion of 14 years of actual imprisonment on grounds of terminal illness or old age etc. can be dealt with under the provisions of Art. 161 of the Constitution of India.

4. The following procedure shall be followed for processing the cases for consideration of the Board:-

(i) Every Superintendent of a Jail in the Union Territory of Delhi who has prisoner(s) undergoing sentence of imprisonment for life shall initiate the case of the prisoners ***at least 6 months in advance*** *of the date when the prisoner would become eligible for consideration of premature release as per the criteria laid down by the State Government in that behalf.*

(ii) The Superintendent of the Jail shall prepare a ***comprehensive note*** *in each case mentioning the* ***family and social background*** *of the prisoner along with the offence for which he was convicted and sentenced and the circumstances under which the offence was committed. He will also project clearly the particulars of the* ***conduct and behavior of the prisoner in the jail*** *during the period of his incarceration,* ***behavioral conduct during the period he was released on probation leave/parole change in his behavioral pattern, and offences, if any, committed by him in jail and punishment awarded*** *to him for such offence(s). A report shall also be made about his* ***physical and mental health or any serious ailment*** *from which the prisoner is suffering, entitling his case for special consideration for premature release. The note shall also contain* ***recommendations of the Jail Superintendent on whether or not he favours for the premature release*** *of the prisoner and in either case it shall be* ***supported by adequate reasons****.*

(iii) ***The Superintendent of the jail shall make a reference to the Deputy Commissioner of Police/Superintendent of Police of the district, where the prisoner was ordinarily residing*** *at the time of the commission of the offence for which he was convicted and sentenced or where he is likely to resettle after his release*

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from the jail. However in case the place where the prisoner was ordinarily residing at the time of commission of the offence is different from the place where he committed the offence, a reference shall also be made to the Deputy Commissioner of Police/Superintendent of Police of the district in which the offence was committed. In either case, he shall forward a copy of the note prepared by him ***to enable the Deputy Commissioner of Police/Superintendent of Police to express his views in regard to the desirability of the premature release of the prisoner****.*

(iv) On receipt of the reference, the concerned ***Deputy Commissioner of Police/Superintendent of Police shall cause an inquiry to be made in the matter through a senior police officer of appropriate rank and based on his own assessment shall make his recommendations****. While making the recommendations the* ***Deputy Commissioner of Police/the Superintendent of Police shall not act mechanically and oppose the premature release of the prisoner on untenable and hypothetical grounds/apprehensions****. In case the concerned Deputy Commissioner of Police/Superintendent of Police* ***is not in favour of the premature release of the prisoner, he shall justify the same with cogent reasons and material****. He shall return the reference to the Superintendent of the concerned jail not later than 30 days from the receipt of the reference.*

(v) The ***Superintendent of Jail shall also make a reference to the Chief Probation Officer*** *and shall forward to him a copy of his note. On receipt of the reference,* ***the Chief Probation Officer shall either hold or cause to be held an inquiry through a Probation Officer in regard to the desirability of premature release of the prisoner having regard to his family and social background, his acceptability by his family members and the society, prospects of the prisoner for rehabilitation and leading a meaningful life as a good citizen. He will not act mechanically and recommend each and every case for premature release. In either case he should justify his recommendation by reasons material****. The Chief Probation Officer shall furnish his report with*

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recommendations to the Superintendent of Jail not later than 30 days from the receipt of the reference.

(vi) On receipt of the report recommendations of the Deputy Commissioner of Police/the Superintendent of Police and Chief Probation Officer, the ***Superintendent of Jail shall put up the case to the Director General of Prisons at least one month in advance of the proposed meeting of the Sentence Review Board****. The Director General of Prisons shall examine the case, bearing in mind the report recommendations of the Superintendent of Jail. Deputy Commissioner of Police/Superintendent of Police and the Chief Probation Officer shall make his own recommendations with regard to the premature release of the prisoner or otherwise keeping in view the general or special guidelines laid down by the Government for the Sentence Review Board. Regard shall also be had to various norms laid down and guidelines given by the Apex Court and various High Courts in the matter of premature release of prisoners.*

5. The ***Board shall follow the following Procedure and Guidelines*** *while reviewing the cases and making its recommendation to the competent authority:-*

(i) The Director General of Prisons shall convene a meeting of the Sentence Review Board on a date and time advance notice of which shall be given to the Chairman and Members of the Board at least ten days before the scheduled meeting and it shall accompany the complete agenda papers i.e. the note of the Superintendent of Jail, recommendations of the Deputy Commissioner of Police/Superintendent of Police, Chief Probation Officer and that of the Director General of Prisons alongwith the copies of documents if any.

(ii) A meeting shall ordinarily be chaired by the Chairman and if for some reasons he is unable to be present in the meeting, it shall be chaired by the Principal Secretary (Home). The Member Secretary (Director General of Prisons) shall present the case of each prisoner under consideration before the Sentence Review Board. The Board shall consider the case and take a view. ***As far as practicable, the Sentence Reviewing Board shall endeavor to make unanimous recommendation. However, in case of a dissent, the majority***

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> ***view shall prevail and will be deemed to be decision of the Board***.
>
> *(iii) While considering the case of premature release of a particular prisoner, the* ***Board shall keep in view the general principles of amnesty/remission of the sentence*** *as laid down by the Government or by Courts as also the earlier precedents in the matter.* ***The paramount consideration before the Sentence Review Board being the welfare of the prisoner and the society at large. The Board shall not ordinarily decline a premature release of a prisoner merely on the ground that the police have not recommended his release. The Board shall take into account the circumstances in which the offence was committed by the prisoner and whether he has the propensity and is likely to commit similar or other offence again***.
>
> *(iv) Rejection of the case of a prisoner for premature release on one or more occasions by the Sentence Review Board will not be a bar for reconsideration of his case. However, the reconsideration of the case of a convict already rejected shall be done only after the expiry of a period of not less than Six months from the date of last consideration of his case.*
>
> *(v) The recommendation of the Sentence Review Board shall be placed before the competent authority without delay for consideration.* ***The competent authority may either accept the recommendations of the Sentence Review Board or reject the same on grounds to be stated or may ask the Sentence Review Board to reconsider a particular case****. The decision of the competent authority shall be communicated to the concerned prisoner and in case the Competent authority has ordered grant of remission and ordered his premature release, the prisoner shall be released forthwith,* ***with or without conditions***.

(emphasis supplied)

9. Chapter-XX of the Delhi Prison Rules relates to premature release and *inter-alia* provides for composition and quorum of the SRB, periodicity of the SRB meetings, eligibility for premature release, procedure for

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consideration as well as review of cases by the SRB. The relevant provisions of Chapter-XX are extracted below:

> *1244. The primary objective underlying premature release is reformation of offenders and their rehabilitation and integration into the society, while at the same time ensuring the protection of society from criminal activities. These two aspects are closely interlinked. Incidental to the same is the conduct, behavior and performance of prisoners while in prison. These have a bearing on their rehabilitative potential and the possibility of their being released by virtue of remission earned by them, or by an order granting them premature release.* ***The most important consideration for premature release of prisoners is that they have become harmless and now have become eligible as useful member of a civilized society****.*
>
> *1245. Premature release of prisoners can be of following four types:-*
>
> > *I. By way of* ***commutation of sentence*** *of life convict and other convict* ***under Section 433*** *of the Code of Criminal Procedure, 1973 by the Government.*
> >
> > *II. By way of* ***remitting sentence*** *of a prisoner* ***under Section 432*** *of the Code of Criminal Procedure, 1973 by the Government.*
> >
> > *III. By order of the Head of the State passed exercising power under Article 72 or Article 161 of the Constitution of India, as the case may be.*
> >
> > *IV. Premature release under any special law enacted by the State providing for release on probation of good conduct prisoners after they have served a part of the sentence.*
>
> *1246. For premature release under Rules 1245 (I) & 1245 (II)of life convicts, the rules as prescribed in this chapter may be followed.*
>
> * * * * *
>
> ***Periodicity of the SRB's meetings***
>
> *1249. SRB should meet at least once in three months at the notified place on a date to be noticed to its members at least 10 days in advance by the Member Secretary. The notice of such meeting shall be accompanied by complete agenda papers.*

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1250. However, the Chairman of the SRB can convene a meeting of the Committee more frequently, even at short notices, if necessary.

Eligibility for premature release

*1251. Every convicted prisoner whether male or female undergoing sentence of life imprisonment and covered by the provisions of Section 433A Cr.P.C shall be **eligible to be considered** for premature release from the prison immediately after serving out the sentence of 14 years of actual imprisonment i.e. without the remissions. It is, however, clarified that completion of 14 years in prison by itself would not entitle a convict to automatic release from the prison and the Sentence Review Board shall have the discretion to recommend to release a convict, at an appropriate time in all cases considering the circumstances in which the crime was committed and other relevant factors like:-*

*a) Whether the convict has **lost his potential for committing crime** considering his overall conduct in Jail during the 14 year incarceration.*

*b) The **possibility of reclaiming the convict** as a useful member of the society and*

*c) **Socio-Economic condition** of the Convict's family.*

*1252. Certain categories of convicted prisoners undergoing life sentence would be entitled to be considered for premature release **only after undergoing imprisonment for 20 years including remissions** but **not less than 14 years of actual imprisonment**. The following categories are mentioned in this connection:-*

a) Convicts who have been imprisoned for life for murder in heinous crimes such as murder with rape, murder with dacoity, murder involving an offence under the Protection of Civil Rights Act 1955, murder for dowry, murder of a child below 14 years of age, multiple murder, murder committed after conviction while inside the Jail, murder during parole or furlough, murder in a terrorist incident, murder in smuggling operation, murder of a public servant on duty.

b) Gangsters, contract killers, smugglers, drug traffickers, racketeers awarded life imprisonment for

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committing murders as also the perpetrators of murder committed with pre-meditation and with exceptional violence or perversity.

c) Convicts whose death sentence has been commuted to life imprisonment.

*1253. All other convicted male prisoners not covered by Section 433A of code undergoing the sentence of life imprisonment would be **entitled to be considered** for premature release after they have served **at least 14 years** of imprisonment inclusive of remission but only after completion of **10 years actual imprisonment** i.e. without remissions.*

*1254. The female prisoners not covered by Section 433A CrPC undergoing the sentence of life imprisonment would be **entitled to be considered** for premature release after they have served **at least 10 years of imprisonment inclusive of remissions** but only after **completion of 7 years actual imprisonment** i.e. without remissions.*

1255. Cases of premature release of persons undergoing life imprisonment before completion of 14 years of actual imprisonment on ground of terminal illness or old age etc. may be dealt with under the provisions of Article 72 of the Constitution of India.

Procedure

1256. The Procedure to be followed for eventual consideration by the SRB under the rules for every life convict eligible shall be as follows:-

i. Every Superintendent in charge of a prison shall initiate the case of a prisoner at least three months in advance of his/her becoming eligible for consideration for premature release as per the criteria laid down for eligibility of premature release of life convicts.

*ii. The Superintendent prison shall prepare a **comprehensive note** for each prisoner, giving his **family and societal background** as per the record of the case, the **offence for which he was convicted and sentenced** and the **circumstances under which the offence was committed**. The Superintendent shall also reflect fully on the **conduct and behavior of the prisoner in the prison** during the period of his incarceration, and during his/release on*

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*probation/leave, **change in his/behavioral pattern**, and prison offences, if any, committed by him/and punishment awarded to him for such offences. A report shall also be made about his **physical and mental health** or any serious ailment with which the prisoner is suffering, entitling him for premature release as a special case. The **note shall contain recommendation of the Superintendent i.e., whether he favors the premature release of the prisoner or not**. **In either case such recommendation shall be supported by adequate reasons**.*

*iii. The **Superintendent of the jail shall make a reference to the Deputy Commissioner of Police/Superintendent of Police** of the district, where the prisoner was ordinarily residing at the time of the commission of the offence for which he was convicted and sentenced or where he is likely to resettle after his release from the Jail. However, in case the place where the prisoner was ordinarily residing at the time of commission of the offence is different from the place where he committed the offence, a reference shall also be made to the Deputy Commissioner of Police/Superintendent of Police of the district in which the offence was committed in either case, **he shall forward a copy of the note prepared by him to enable the Deputy Commissioner of Police/ Superintendent of Police to express his views in regard to the desirability of the premature release of the prisoner**.*

*iv. On receipt of the reference, the concerned Deputy Commissioner of Police/Superintendent of Police shall **cause an inquiry to be made** in the matter through a senior police officer of appropriate rank and based on his own assessment shall make his recommendations. While making the recommendations the Deputy Commissioner of Police/ Superintendent of Police **shall not act mechanically and oppose the premature release of the prisoner on untenable and hypothetical grounds/apprehensions**. In case the concerned Deputy Commissioner of Police/Superintendent of Police is **not in favor** of the premature release of the prisoner, he **shall justify the same with cogent reasons and material**. He shall return the reference to the Superintendent*

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of the concerned Jail not later than 30 days from the receipt of the reference.

v. The ***Superintendent of Jail shall also make a reference to the Chief Probation Officer*** *and shall forward a copy of his note. On receipt of the reference, the Chief Probation Officer shall either hold or* ***cause to be held an inquiry*** *through a Probation Officer in regard to the* ***desirability of premature release*** *of the prisoner* ***having regard to his family and social background, his acceptability by his family members and the society, prospects of the prisoner for rehabilitation and leading a meaningful life as a good citizen****. He* ***will not act mechanically and recommend each and every case for premature release. In either case he should justify his recommendation by reasoned material****. The Chief Probation Officer shall furnish his report with recommendations to the Superintendent of the Jail not later than 30 days from the receipt of the reference.*

vi. On receipt of the report/ recommendations of the Deputy Commissioner of Police/Superintendent of Police and Chief Probation Officer, the ***Superintendent of Jail shall put up the case to the Inspector General of Prisons*** *at least one month in advance of the proposed meeting of the Sentence Review Board. The Inspector General of Prisons shall examine the case, bearing in mind the report/recommendations of the Superintendent of Jail. Deputy Commissioner of Police/Superintendent of Police and Chief Probation Officer* ***shall make his own recommendations*** *with regard to the premature release of the prisoner or otherwise keeping in view the* ***general or special guidelines laid down by the Government*** *for the Sentence Review Board. Regard shall also be had to various norms laid down and guidelines given by the Apex Court and various High Courts in the matter of premature release of prisoners.*

1257. The Board shall follow the following Procedure and Guidelines while reviewing the cases and making its recommendations to the competent authority.

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a) The Inspector General of Prisons with the prior approval of chairman shall convene a meeting of the Sentence Review Board on a date and time advance notice of which shall be given to the Chairman and Members of the Board at least ten days before the scheduled meeting and it shall accompany the complete agenda papers i.e. the note of the Superintendent of Jail recommendations of the Deputy Commissioner of Police/ Superintendent of Police, Chief Probation Officer and Inspector General of Prisons along with the copies of documents, if any.

b) A meeting shall ordinarily be chaired by the Chairman and if for some reasons he is unable to be present in the meeting, it shall be chaired by the Principal Secretary (Home). The Member Secretary (Inspector General of Prisons) shall present the case of each prisoner under consideration before the Sentence Review Board. The board shall consider the case and take a view. As far as practicable, the Sentence Review Board shall endeavor to make unanimous recommendation. However, in case of a dissent, the majority view shall prevail and will be deemed to be decision of the Board. If equal numbers of members are of opposing views, the decision of the chairman will be final. However, the views of the opposing members should be recorded.

c) While considering the case of premature release of a particular prisoner, the Board shall keep in view the general principles of amnesty/remission of the sentence as laid down by the Government or by Courts as also the earlier precedents in the matter. The ***paramount consideration before the Sentence Review Board being the welfare of the prisoner and the society at large****. The Board shall* ***not*** *ordinarily decline a premature release of a prisoner* ***merely on the ground that the police have not recommended*** *his release. The Board shall* ***take into account the circumstances in which the offence was committed*** *by the prisoner and* ***whether he has the propensity and is likely to commit similar or other offence again****.*

d) ***Rejection*** *of the case of a prisoner for premature release* ***on one or more occasions*** *by the Sentence Review Board will* ***not be a bar for reconsideration*** *of his case. However, the reconsideration of the case of a convict already*

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> *rejected shall be after the expiry of a period of Six months from the date of last consideration of his case. It is prescribed that decision of the case of a convict of premature release should be* ***through speaking order in writing****.*
>
> *e) The recommendation of the Sentence Review Board shall be placed before the competent authority without delay for consideration. The competent authority may either* ***accept*** *the recommendations of the Sentence Review Board or* ***reject*** *the same on grounds to be stated* ***or may ask the SRB to reconsider*** *a particular case. The decision of the competent authority shall be communicated to the concerned prisoner and in case the competent authority has ordered grant of remission and ordered his premature release, the prisoner shall be released forthwith* ***with or without conditions****.*
>
> (emphasis supplied)

10. Relying on the decision of the Supreme Court in ***Bilkis Yakub Rasool vs. Union of India & Ors.***,[1] learned *Amicus* has submitted that *remission is reduction of a sentence* without however altering its nature or character; and that in such cases, neither the guilt nor the sentence imposed by the court on the offender is affected. It has been submitted that *remission affects only the execution of the sentence*, relieving a convict of the obligation to undergo the entire term of imprisonment, which is *distinct from reduction or modification of sentence* by an appellate court. The relevant paras of *Bilkis Yakoob Rasool* are extracted below:

> *"87. It was further observed in Prem Raj [State (NCT of Delhi) v. Prem Raj, (2003) 7 SCC 121 : 2003 SCC (Cri) 1586] that a pardon is an act of grace, proceeding from the power entrusted with the execution of the law, which exempts the individual on whom it is bestowed from the punishment the law inflicts for a crime he has committed. It affects both the punishment prescribed for the offence*

[1] (2024) 5 SCC 481

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*and the guilt of the offender. But pardon has to be distinguished from "amnesty" which is defined as a "general pardon of political prisoners; an act of oblivion". An amnesty would result in the release of the convict but does not affect disqualification incurred, if any. "*Reprieve*" means a stay of execution of a sentence, a postponement of a capital sentence. Respite means awarding a lesser sentence instead of the penalty prescribed in view of the fact that the accused has had no previous conviction. It is something like a release on probation for good conduct under Section 360 CrPC. On the other hand,* ***remission is reduction of a sentence without changing its character. In the case of a remission, the guilt of the offender is not affected, nor is the sentence of the court****, except in the sense that the person concerned does not suffer incarceration for the entire period of the sentence, but is relieved from serving out a part of it.* ***Commutation is change of a sentence to a lighter sentence of a different kind****. Section 432 empowers the appropriate Government to suspend or remit sentences.*

"88. Further, a remission of sentence does not mean acquittal and an aggrieved party has every right to vindicate himself or herself. In this context, reliance was placed on Sarat Chandra Rabha v. Khagendranath Nath [Sarat Chandra Rabha v. Khagendranath Nath, 1960 SCC OnLine SC 130 : AIR 1961 SC 334] ("Sarat Chandra Rabha"), wherein a Constitution Bench of this Court while distinguishing between a pardon and a remission observed that an order of remission does not wipe out the offence; it also does not wipe out the conviction. All that it does is to have an effect on the execution of the sentence; though ordinarily a convicted person would have to serve out the full sentence imposed by a court, he need not do so with respect to that part of the sentence which has been ordered to be remitted. An order of ***remission thus, does not in any way interfere with the order of the court; it affects only the execution of the sentence*** *passed by the court and frees the convicted person from his liability to undergo the full term of imprisonment inflicted by the court even though the order of conviction and sentence passed by the court still stands as it is. The* ***power to grant remission is an executive power*** *and cannot have the effect which the order of an appellate or revisional court would have of reducing the sentence passed by the trial court and substituting in its place the*

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reduced sentence adjudged by the appellate or revisional court. According to Weater's Constitutional Law, to cut short a sentence by an act of clemency is an exercise of executive power which abridges the enforcement of the judgment but does not alter it qua the judgment."

(emphasis supplied)

11. Furthermore, Ms. John has submitted, that the nature and scope of consideration while deciding a plea for premature release has been elaborated by the Supreme Court in its decision in ***Joseph vs. State of Kerala & Ors.***[2] Learned *Amicus* has drawn attention to the following observations of the Supreme Court:

> "*37. Classifying – to use a better word, typecasting convicts, through guidelines which are inflexible, based on their crime committed in the distant past can result in the real danger of overlooking the reformative potential of each individual convict. Grouping types of convicts, based on the offences they were found to have committed, as a starting point, may be justified. However, the prison laws in India - read with Articles 72 and 161 – encapsulate a strong underlying reformative purpose.* ***The practical impact of a guideline, which bars consideration of a premature release request by a convict who has served over 20 or 25 years, based entirely on the nature of crime committed in the distant past, would be to crush the life force out of such individual, altogether****. Thus, for instance, a 19 or 20 year old individual convicted for a crime, which finds place in the list which bars premature release, altogether, would mean that such person would never see freedom, and would die within the prison walls. There is a peculiarity of continuing to imprison one who committed a crime years earlier who might well have changed totally since that time. This is the condition of many people serving very long sentences. They may have killed someone (or done something much less serious, such as commit a narcotic drug related offences or be serving a life sentence for other non-violent crimes) as young individuals and remain incarcerated 20 or more years later.* ***Regardless of the morality of continued punishment, one may***

[2] 2023 SCC OnLine SC 1211

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> ***question its rationality***. *The question is, what is achieved by continuing to punish a person who recognises the wrongness of what they have done, who no longer identifies with it, and who bears little resemblance to the person they were years earlier? It is tempting to say that they are no longer the same person. Yet, the insistence of guidelines, obdurately, to not look beyond the red lines drawn by it and continue in denial to consider the real impact of prison good behavior, and other relevant factors (to ensure that such individual has been rid of the likelihood of causing harm to society) results in violation of Article 14 of the Constitution.* ***Excluding the relief of premature release to prisoners who have served extremely long periods of incarceration, not only crushes their spirit, and instils despair, but signifies society's resolve to be harsh and unforgiving***. ***The idea of rewarding, a prisoner for good conduct is entirely negated.***"

(emphasis supplied)

12. It has been pointed-out that though section 432 of the Cr.P.C. does not, by itself, grant to a convict a fundamental, indefeasible right of remission, it does however confer upon such convict a legal right to be *considered* for remission in accordance with law, keeping in view the constitutional safeguards available under Articles 20 and 21 of the Constitution of India. In support of this proposition, reliance was placed on the verdict of the Supreme Court in ***State of Haryana vs. Mahender Singh & Ors.***,[3] wherein the Supreme Court has observed as follows:

> "*27. It is true that* ***no convict has a fundamental right of remission or shortening of sentences***. *It is also true that the State in exercise of its executive power of remission must consider each individual case keeping in view the relevant factors. The power of the State to issue general instructions, so that no discrimination is made, is also permissible in law.*
>
> * * * * *

[3] (2007) 13 SCC 606

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> "38. ***A right to be considered for remission, keeping in view the constitutional safeguards of a convict under Articles 20 and 21 of the Constitution of India, must be held to be a legal one***. *Such a legal right emanates from not only the Prisons Act but also from the Rules framed thereunder. Although no convict can be said to have any constitutional right for obtaining remission in his sentence, he in view of the policy decision itself must be held to have a right to be considered therefor. Whether by reason of a statutory rule or otherwise if a policy decision has been laid down, the persons who come within the purview thereof are entitled to be treated equally. (State of Mysore v. H. Srinivasmurthy [(1976) 1 SCC 817 : 1976 SCC (L&S) 126])*"

(emphasis supplied)

13. Learned *Amicus* has submitted that the parameters governing premature release have been prescribed under the 2004 Guidelines, the Delhi Prison Rules, as well as in various decisions of the Supreme Court and this court. It has been pointed-out that clause 3.1(a) to (c) of the 2004 Guidelines set-out a non-exhaustive list of factors relevant for consideration of a case for premature release, including whether the convict has lost the propensity to commit crime in light of his overall conduct in prison, the possibility of his rehabilitation as a useful member of society, and the socio-economic condition of the convict's family. Furthermore, it has been submitted that these considerations have been substantially reiterated in Rule 1251 of the Delhi Prison Rules. Attention has also been drawn to Rule 1244 of the Delhi Prison Rules to point-out the rehabilitative purpose underlying the policy of premature release and the significance of prison conduct in achieving the primary objectives of the policy.

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14. Ms. John has pointed-out that in cases involving heinous offences, though clause 3.1 of the 2004 Guidelines prescribe a maximum period of 25 years' incarceration (including remission) for the purpose of consideration of premature release of a prisoner, however no such upper limit has been prescribed under the Delhi Prison Rules.

15. Attention has been drawn to clause 5(iii) of the 2004 Guidelines and Rule 1257(c) of the Delhi Prison Rules, to point-out that "ordinarily" the SRB ought not to decline a request for premature release merely on the ground that the police authorities have not recommended such release. It is accordingly submitted that the applicable policy framework contemplates an *independent assessment* by the SRB and does not treat the opinion of the police as determinative of whether or not a prisoner is to be prematurely released.

16. Learned *Amicus* has submitted that the parameters governing consideration for premature release have been delineated in a slew of decisions by the Supreme Court, particularly in ***Laxman Naskar vs. Union of India & Ors.***,[4] where the Supreme Court has observed that the government must pay attention *inter-alia* to the conduct of a convict while in jail; whether the convict has lost the potentiality of committing crime; and the socio-economic conditions of the convict's family. Relevant paras of *Laxman Naskar* read as follows:

> "*6. From the counter filed by the State, we find that the Government has also framed guidelines for this purpose. To consider the prayer for premature release of the "life convicts", a police report was called for on the following points:*

[4] (2000) 2 SCC 595

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(i) Whether the offence is an individual act of crime without affecting the society at large.

(ii) Whether there is any chance of future recurrence of committing crime.

(iii) Whether the convict has lost his potentiality in committing crime.

(iv) Whether there is any fruitful purpose of confining this convict any more.

(v) Socio-economic condition of the convict's family.

"*7. Though the police report did not cover all the above points, the prayer of "life convicts" for premature release was rejected mainly on the ground of objections by police. The police had only reported about the chances of the petitioners committing crime again. It becomes apparent from the record that the Government did not consider the prayer for premature release as per the Rules. The Government did not pay sufficient attention to the conduct record of the petitioners while in jail nor did it consider whether they had lost their potentiality in committing crime. The relevant aspect, namely, that there is no fruitful purpose in confining them any more was also not considered nor were the socio-economic conditions of the convict's family taken into account. Thus the orders of the Government suffer from infirmities and are liable to be quashed.*

"*8. In the result, we set aside all the orders of the State Government and direct the authorities to reconsider the cases for premature release of all "life convicts" who have approached us by filing the present writ petitions as per relevant rules/guidelines within a period of one month from the receipt of this order.*"

(emphasis supplied)

17. Reliance has further been placed on a decision of the three-Judge Bench of the Supreme Court in ***Satish alias Sabbe vs. State of Uttar Pradesh***[5] to submit that the length of the sentence or gravity of the offence cannot, by themselves, constitute the sole basis for rejecting a plea for premature

[5] (2021) 14 SCC 580

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release. It has been submitted that the assessment of a convict's propensity to commit crime must be founded on considerations such as the convict's antecedents and jail conduct, and not merely on factors such as his age or apprehensions of victims/witnesses. Relevant paras of the said decision read as under:

> "*18. A perusal of the government orders displays that the statutory mandate on premature release has been completely overlooked.* ***The three-factor evaluation of : (i) antecedents, (ii) conduct during incarceration, and (iii) likelihood to abstain from crime, under Section 2 of the U.P. Prisoners Release on Probation Act, 1938, have been given a complete go-by. These refusals are not based on facts or evidence, and are vague, cursory, and merely unsubstantiated opinions of the State authorities***.
>
> "*19. It would be [sic] gainsaid that length of the sentence or the gravity of the original crime cannot be the sole basis for refusing premature release. Any assessment regarding predilection to commit crime upon release must be based on antecedents as well as conduct of the prisoner while in jail, and not merely on his age or apprehensions of the victims and witnesses. [Zahid Hussein v. State of W.B., (2001) 3 SCC 750 : 2001 SCC (Cri) 631] As per the State's own affidavit, the conduct of both the petitioners has been more than satisfactory. They have no material criminal antecedents, and have served almost 16 years in jail (22 years including remission). Although being about 54 and 43 years old, they still have substantial years of life remaining, but that does not prove that they retain a propensity for committing offences. The respondent State's repeated and circuitous reliance on age does nothing but defeat the purpose of remission and probation, despite the petitioners having met all statutory requirements for premature release.*
>
> "*20. Indeed, the petitioners' case is squarely covered by the ratio laid down by this Court in Shor v. State of U.P. [Shor v. State of U.P., (2021) 14 SCC 820], para 5, which has later been followed in Munna v. State of U.P. [Munna v. State of U.P., (2021) 14 SCC 589], the relevant extract of which is reproduced as under : (Shor case [Shor v. State of U.P., (2021) 14 SCC 820] , SCC pp. 821-22, para 5)*

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> *"5. A reading of the order dated 22-1-2018 shows that the Joint Secretary, Government of U.P. has failed to apply his mind to the conditions of Section 2 of the U.P. Act.* ***Merely repeating the fact that the crime is heinous and that release of such a person would send a negative message against the justice system in the society are factors de hors Section 2****.* [of the United Provinces Prisoners' Release on Probation Act, 1938] *Conduct in prison has not been referred to at all and the Senior Superintendent of Police and the District Magistrate confirming that the prisoner is not "incapacitated" from committing the crime is not tantamount to stating that he is likely to abstain from crime and lead a peaceable life if released from prison. Also having regard to the long incarceration of 29 years (approx.) without remission, we do not wish to drive the petitioner to a further proceeding challenging the order dated 22-1-2018 when we find that the order has been passed mechanically and without application of mind to Section 2 of the U.P. Act.""*

(emphasis supplied)

18. Ms. John has submitted that the principles governing premature release of convicts under section 432 of the Cr.P.C., particularly in the context of remission policies applicable to the State of NCT of Delhi, have been elaborated upon by Co-ordinate Benches of this court in various decisions. It has further been submitted that these decisions underscore the relevance of a convict's *post-conviction conduct* and accord due weightage to the reports submitted by the Chief Probation Officer/ Probation Officers, the Social Welfare Department, and the Prison Authorities. In support of this submission, learned *Amicus* has placed reliance on the following decisions of the Co-ordinate Benches of this court:

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18.1. ***Sushil Sharma vs. State***[6]

"25. The guidelines, inter alia, required the SRB to strictly observe the general principles of amnesty and remission of sentence as laid down by the Government or by the Courts; the cardinal consideration being the welfare of the prisoner and society at large.

"26. The SRB was further directed, not to decline a premature release of a prisoner, merely on the ground that the police have not recommended his release; and were required to take into account not only the circumstances in which the offence was committed by the prisoner, but also whether he had the propensity and could be stated to be likely to commit a similar or other offence again.

"27. In view of the foregoing requirements prescribed by the guidelines, the SRB cannot be heard to state that, they are not bound by them particularly, in view of the circumstance that they owe their existence to the guidelines. ***The SRB, is required to exercise its recommendatory function strictly in accordance with the binding principles enunciated in the guidelines, from where their discretion emanates****. The policy formulated by the Competent Authority is binding on the SRB and has to be scrupulously observed, adhered to and followed.*

"28. In this behalf, it would be trite to observe that, an authority must be strictly held to the standards, by which it professes its conduct to be judged.

"29. At this juncture, we must record our appreciation for Mr. Rahul Mehra, learned Standing Counsel (Criminal) for his submission that the SRB being a recommendatory body owing its existence to the guidelines, is bound by them absolutely, although, the Lieutenant Governor, who is the competent authority is, in turn, not bound by the recommendations of the SRB. The issue, therefore, rests there.

"30. The SRB is consequently bound by law, to strictly adhere to the guidelines, in the discharge of their recommendatory function, to review the sentences awarded to a prisoner and refer them for release, if so warranted by the guidelines, to the Competent Authority.

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[6] 2018 SCC OnLine Del 13277

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The discretion to formulate policy and to frame guidelines for premature release of prisoners, undoubtedly vests in the State, but once made, the same have to be followed without exception.

* * * * *

"*40. Although, there can be no quarrel with the proposition that the SRB has been vested with discretion under the extant guidelines, the same has to be exercised in a just and reasonable manner, after due and proper consideration of all the relevant material.*

* * * * *

"*48. The categories of convicted prisoners, who stand convicted of a capital offence and whose death sentence has been commuted to life imprisonment; as in Sushil Kumar Sharma's case, are entitled to be considered for premature release after undergoing imprisonment for 20 years including remission.*

"*49. The said condition is further qualified by a cap in the period of incarceration of such lifer, inclusive of remissions, to a total period of 25 years.*

"*50. In view of the foregoing, in order to justifiably continue the incarceration of Sushil Kumar Sharma, beyond the maximum period stipulated in the guidelines, it is incumbent upon the State to provide cogent and compelling reasons for his further detention.*

"*51. In the present case, these reasons are conspicuous by their absence. Even, accepting the submission made on behalf of the State, to the effect that, the cap of 25 years in the guidelines do not warrant automatic release of a person sentenced to imprisonment for life, we are of the view that, Sushil Kumar Sharma's further incarceration by the State beyond the 29 years' incarceration with remissions, already undergone by him, does not admit of legal justification and lawful sanction, in the facts and circumstances elaborated hereinbefore.*"

(emphasis supplied)

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18.2. ***Vijay Kumar Shukla vs. State NCT of Delhi & Anr.***[7]

"28. Since August 2020, almost every 6 months, his case has been rejected by the SRB noting the strong opposition by the Police Department, 'in the facts and circumstances of the case, 'gravity and perversity of the crime'.

"29. Each time the SRB rejects the plea, in a pithily drafted, cursorily articulated proforma paragraph, not only is each of the rejections almost a copy-paste of an earlier rejection, but it lacks any embellishment or modicum of assessment or reasoning beyond the proforma factors on which SRB has right to reject. What is, therefore, before this Court are a set of previous rejections and the impugned rejection of 2023 parroting the same reasons.

"30. The Court, therefore, faces two options : either to be persuaded by these repeated rejections and conclude that there must be a rationale underlying the SRB's consistent stance, or to evaluate whether the SRB has genuinely applied logic, rationality, reasonableness, and proper application of mind in accordance with the rules and guidelines it is bound to follow. The second option is prompted by the petitioner's 26-year-long journey being incarcerated, as noted above, which reveals an apparent and significant discrepancy between that journey and the reasons cited by the SRB for its rejections. There seems to be an apparent and obvious mismatch between the elements of that journey and the reasons for the rejection by the SRB.

* * * * *

*"35. <u>From a perusal of the impugned Minutes of SRB (extracted in paragraph 13 above), none of these aspects can be gleaned or ascertained. Ex facie reading of the impugned order bears out that only three aspects have been stated in the so-called speaking order. i.e. the original crime, gravity and perversity of it, strong opposition by police.</u> **<u>This is further embellished by an open-ended 'etcetera', which in its own right is dispositive of non-application of mind</u>**. Rejecting premature release of a 26-year-old convict with an 'etcetera' is an unfortunate short-cut, perfectly opaque and a*

[7] 2024 SCC OnLine Del 7805

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disservice to the rules and guidelines which the SRB is mandated to follow.

* * * * *

"*40. Clearly, pure and simple logic has got lost in the bureaucratic miasma.* ***The very qualification for being in semi-open prison and open prison, as per Rules, 1323 and 1325, involves an assessment of factors like physical and mental health, behaviour and conduct, progress in work, vocational training, education, group adjustability, character and discipline, fitness for being entrusted to responsibility, performance of labour with devotion and diligence, and various other connected factors****. Having passed muster on all these stringent factors and establishing his grades consistently, it is a mystery as to why these did not appeal to the SRB or any of the authorities giving their input reports, i.e. Police, Probation Officer, the Inspector General of Police and the prison authorities.*

* * * * *

"45. As rightly pointed out, the petitioner's counsel's "propensity for crime" cannot be a random subjective assessment but has to be based on objective factors. The objective factors are quite well ensconced in the eligibility conditions, of a convict being in a semi-open prison and even more stringent requirements to qualify for an open prison. If those factors are met in this case, the committing to a semi-open/open prison is done, and the 'report card' of the convict continues to be good, in the opinion of the Court would be supremely critical factors that ought to imbue any assessment for premature release.

* * * * *

"*47. The petitioner's counsel relies on the guidelines by the National Human Rights Commission of September 2003 prescribing mandatory release after 25 years of incarceration, including remission, being a policy more beneficial to the accused is also taken into account."*

(emphasis supplied)

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18.3. ***Santosh Kumar Singh vs. State (Govt. of the NCT) of Delhi***[8]

"*70. While this articulation of factors in abstract terms might reflect a comprehensive framework, the test lies in the actual application of these parameters to the facts of each case. A closer scrutiny of the specific reasons recorded in the Impugned Minutes of the SRB, which have already been extracted in the preceding paragraphs, reveals a striking departure from the procedural and substantive expectations laid down by judicial precedents. Notwithstanding the elaborate preface of the Impugned Minutes, the rejection in each of the present matters* ***appears to hinge on a recurring conclusion: that the convict has "not lost the propensity to commit crime"****. This finding, however, is left unsubstantiated by any cogent reasoning or case-specific analysis.*

"*71.* ***Critically, there is no material on record to show that the SRB undertook any contemporaneous or independent psychological or behavioural assessment to substantiate this sweeping conclusion****. Instead,* ***the premise of sustained criminal propensity appears to be inferred predominantly from the nature and gravity of the original offence and the opposition by the police****.* ***Such an approach is constitutionally untenable and jurisprudentially flawed****. In Satish @ Sabbe v. State of UP, the Supreme Court has categorically held that the "gravity of the original crime cannot be the sole basis for refusing premature release." The Court further clarified that the assessment of a convict's potential for recidivism must rest on antecedents and conduct during incarceration, not on speculative apprehensions or police oppositions.*

* * * * *

"*75. It must also be noted that in at least two of the rejection orders under consideration, the SRB has made the striking observation that "the conduct of the convict in jail is not necessarily a barometer of what he may do if outside the prison". This broad proposition is not only inconsistent with the Board's own declared mandate in the preface, but also contradicts both the governing statutory framework and settled judicial doctrine.* ***Rule 1244 of the DPR expressly identifies post-conviction conduct as the principal***

[8] 2025 SCC OnLine Del 10585

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indicator of reformation and eligibility for premature release. *Likewise, multiple judicial pronouncements, such as Zahid Hussein and Satish @ Sabbe, have held that in the absence of contemporary evidence to the contrary, sustained good conduct during incarceration must be given substantial weight. Thus, the Board's holding that the conduct of the convict in jail is not an indicator of what they may do outside, not only effectively nullifies the probative value of the convict's post-conviction conduct and reformative efforts, but also reflects a patently erroneous and arbitrary approach that undermines the very purpose of the remission policies.*

* * * * *

"*78. While the Impugned Minutes of Meeting in each of the present cases recite that the SRB considered the reports received from the Police and the Social Welfare Departments, as well as the facts and circumstances of the respective cases, the record reveals a mere perfunctory reference to these materials. In the prefatory remarks of the impugned decisions, it is stated that the Director General (Prisons) placed before the Board a compiled agenda containing case*-specific *materials, including police reports, probation officer assessments, medical records, offence details, and institutional conduct reports. However, a bare assertion of having "considered" these documents cannot substitute for the judicially mandated duty of meaningful and individualised evaluation*."

(emphasis supplied)

19. It is the learned *Amicus*'s submission that there exists a systemic issue in the manner in which the SRB rejects cases for premature release of convicts, inasmuch their pleas are often rejected solely on the basis of the gravity of the offence, while completely disregarding other relevant considerations such as the reports by the Chief Probation Officer, Social Welfare Department, and the Prison Authorities. It has been further submitted that such an approach by the SRB undermines the rehabilitative objectives underlying the policy of premature release and

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reduces the exercise undertaken by the SRB to a mere mechanical consideration.

20. In this behalf, attention has been drawn to the decision of the Co-ordinate Bench of this court in ***Harpreet Singh vs. State (Govt. of NCT of Delhi)***,[9] the relevant extract of which reads as follows:

> "*112.* ***Another glaring feature of the SRB's reasoning is the systematic exclusion of every positive Institutional Report, from its final conclusions***.
>
> * * * * *
>
> "*115. The Rejection Orders in the Petitioners (sic) are "pithily drafted, cursorily articulated proforma paragraphs" taking a myopic view of only the gravity of offence, overlooking all other relevant considerations. Also, the reasoning process devolved into a "copy-paste" exercise, with no other reason for rejection, much like the rejections in Vijay Kumar Shukla (supra). It clearly reflects non-application of mind in ignoring the relevant parameters provided in Policy, 2004 and dogmatic adherence to gravity of offence, which cannot be given this exalted position in the Remission Orders, especially when it is not stated to be a relevant factor.*"
>
> (emphasis supplied)

21. On the question whether a constitutional court may *direct* the release of a convict instead of remanding the matter to the competent authority for re-consideration, learned *Amicus* has submitted that the issue is no longer *res integra*. It is Ms. John's submission that though the power to grant remission *ordinarily* vests in the executive, however the exercise of such power remains amenable to judicial review. Furthermore, it has been pointed-out that in cases involving manifest arbitrariness, failure to discharge statutory obligations, or violation of a convict's fundamental

[9] 2026 SCC OnLine Del 397

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rights guaranteed under Article 21 of the Constitution, constitutional courts are empowered to intervene, and, in appropriate cases, direct the release of a convict instead of relegating the matter to the competent authority for reconsideration.

22. In support of the above submission, Ms. John has placed reliance on the following decisions of the Supreme Court:

22.1. ***Homy Secretary (Prison) & Ors. vs. H. Nilofer Nisha***:[10]

> "*33. In case, as pointed out above, a petition is filed without any decision(s) of the State Level Committee in terms of Para 5(I) of the G.O. in question, the Court should direct the committee/authority concerned to take decision within a reasonable period. Obviously, too much time cannot be given because the liberty of a person is at stake. This order would be more in the nature of a writ of mandamus directing the State to perform its duty under the Scheme. The authorities must pass a reasoned order in case they refuse to grant benefit under the Scheme. Once a reasoned order is passed then obviously the detenu has a right to challenge that order but that again would not be a writ of habeas corpus but would be more in the nature of a writ of certiorari. In such cases, where reasoned orders have been passed the High Court may call for the record of the case, examine the same and after examining the same in the context of the parameters of the Scheme decide whether the order rejecting the prayer for premature release is justified or not.* ***If it comes to the conclusion that the order is not a proper order then obviously it can direct the release of the prisoner by giving him the benefit of the Scheme****. There may be cases where the State may not pass any order on the representation of the petitioner for releasing him in terms of GO (Ms) No. 64 dated 1-2-2018 despite the orders of the Court.* ***If no orders have been passed and there is no explanation for the delay then the Court would be justified in again calling for the record of the case and examining the same in terms of the policy and then passing the orders****.*"

(emphasis supplied)

[10] (2020) 14 SCC 161

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22.2. *Satish alias Sabbe:*

"*17. It is no doubt trite law that no convict can claim remission as a matter of right. [Swamy Shraddananda (2) v. State of Karnataka, (2008) 13 SCC 767 : (2009) 3 SCC (Cri) 113] However, in the present case, the circumstances are different. What had been sought and directed by this Court through repeated orders was not premature release itself, but due application of mind and a reasoned decision by executive authorities in terms of existing provisions regarding premature release. Clearly, once a law has been made by the appropriate legislature, then it is not open for the executive authorities to surreptitiously subvert its mandate. Where the authorities are found to have failed to discharge their statutory obligations despite judicial directions,* ***it would then not be inappropriate for a constitutional court while exercising its powers of judicial review to assume such task onto itself*** *and direct compliance through a writ of mandamus.*"

(emphasis supplied)

22.3. ***Union of India vs. V. Sriharan alias Murugan & Ors.***[11]

"*110. While stoutly resisting the said submission made on behalf of the Union of India, Mr Dwivedi, learned Senior Counsel, who appeared for the State of Tamil Nadu contended that in the case on hand, this Court while commuting the death sentence of some of the convicts did not exercise the Executive Power of the State, and that it only exercised its judicial power in the context of breach of Article 21 of the Constitution. It was further contended that if the stand of the Union of India is accepted then in every case where this Court thought it fit to commute sentence for breach of Article 21 of the Constitution, that would foreclose even the right of a convict to seek for further commutation or remission before the appropriate Government irrespective of any precarious situation of the convict i.e. even if the physical condition of the convict may be such that he may be vegetable by virtue of his old age or terminal illness. It was also pointed out that in V. Sriharan v. Union of India [V. Sriharan v. Union of India, (2014) 4 SCC 242 : (2014) 2 SCC (Cri)*

[11] (2016) 7 SCC 1

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282], order dated 18-2-2014, this Court while commuting the sentence of death into one of life also specifically observed that such commutation was independent of the power of remission under the Constitution, as well as, the statute. In this context, when we refer to the power of commutation/remission as provided under the Criminal Procedure Code, namely, Sections 432, 433, 433-A, 434 and 435, ***it is quite apparent that the exercise of power under Article 32 of the Constitution by this Court is independent of the Executive Power of the State under the statute****. **As rightly pointed out by Mr Dwivedi, learned Senior Counsel in his submissions made earlier, such exercise of power was in the context of breach of Article 21 of the Constitution****. In the present case, it was so exercised to commute the sentence of death into one of life imprisonment.* ***It may also arise while considering wrongful exercise or perverted exercise of power of remission by the statutory or constitutional authority****. Certainly there would have been no scope for this Court to consider a case of claim for remission to be ordered under Article 32 of the Constitution. In other words, it has been consistently held by this Court that when it comes to the question of reviewing an order of remission passed which is patently illegal or fraught with stark illegality on constitutional violation or rejection of a claim for remission, without any justification or colourful exercise of power, in either case by the executive authority of the State,* ***there may be scope for reviewing such orders passed by adducing adequate reasons****. **Barring such exceptional circumstances, this Court has noted in numerous occasions, the power of remission always vests with the State executive and this Court at best can only give a direction to consider any claim for remission and cannot grant any remission and provide for premature release****. It was time and again reiterated that the power of commutation exclusively rests with the appropriate Government.*

* * * * *

"*114. Therefore, it must be held that there is every scope and ambit for the appropriate Government to consider and grant remission under Sections 432 and 433 of the Criminal Procedure Code even if such consideration was earlier made and exercised under Article 72 by the President and under Article 161 by the Governor. As far as the implication of Article 32 of the Constitution by this Court is concerned, we have already held that the power under*

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Sections 432 and 433 is to be exercised by the appropriate Government statutorily, it is not for this Court to exercise the said power and it is always left to be decided by the appropriate Government, even if someone approaches this Court under Article 32 of the Constitution. We answer the said question on the above terms."

(emphasis supplied)

23. Furthermore, learned *Amicus* has submitted that this court has consistently exercised the power of judicial review over decisions of the SRB, observing that an executive decision affecting the personal liberty of an individual cannot be shielded from judicial scrutiny merely by invoking its 'policy' character. Attention in this behalf has been drawn to the observations of the Co-ordinate Bench of this court in *Santosh Kumar Singh*, where the court said that:

> "*65. The SRB performs a vital function of deciding whether a convict serving life sentence is entitled to be released prematurely. The decision so made by the SRB has a profound impact on the future of individuals serving life sentences. Such a decision has a direct bearing on the fundamental right to life and personal liberty of a convict. This imposes an obligation upon the SRB to act fairly, reasonably, and in strict accordance with both the applicable policy and transparent reasoning. <u>An executive decision that affects liberty of a person cannot be insulated from judicial scrutiny merely by invoking its policy character</u>.*
>
> "*66. The convicts do not have an enforceable right to be released prematurely. They only have a right to be considered in accordance with the governing policy and legal framework; however, this consideration cannot be reduced merely to a mechanical refusal. <u>Unless every application is 'meaningfully considered' and decided through speaking orders, the mechanical decision of the SRB, without referring to relevant factors of determination, would be violative of the principles of natural justice</u>. As held in the case of Vijay Kumar Shukla, administrative convenience cannot be attained at the cost of the right of the prisoners to have their cases meaningfully reviewed as per law. Therefore, <u>the SRB must give cogent reasons in support</u>*

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of their decisions. Although, the law does not require elaborate reasoning but some degree of application of mind must be evident from the order. At the very least, the decision must reflect how inputs, reports and relevant factors were considered by the Board.

"67. The role of the judiciary is not to undertake a de novo evaluation of every SRB decision, but to ensure that the exercise of discretion is neither arbitrary nor discriminatory, and is premised on a discernible material foundation. ***As a constitutional court entrusted with safeguarding fundamental rights, this Court is obligated to intervene where such decisions reflect mechanical reasoning, misapplication of policy, or a lack of objective and case-specific analysis****."*

(emphasis supplied)

It is pointed-out however, that in the above case the Co-ordinate Bench had directed the SRB to re-consider the convict's case for premature release.

24. Ms. John has submitted, that in appropriate cases, this court has not remanded the matters for reconsideration to the SRB but has instead directed the release of convicts. In this behalf, reliance has been placed on the decision of the Division Bench of this court in *Sushil Sharma*, and decisions of the Co-ordinate Benches of this court in *Vijay Kumar Shukla*, ***Zafar Ul Islam vs. State of NCT of Delhi***,[12] *Harpreet Singh*, ***Asif vs. State (Govt. of NCT of Delhi)***,[13] and *Rajab Ali*.

25. In particular, Ms. John has drawn attention to the following observations of the Co-ordinate Benches of this court to underscore the futility of remanding a case back to SRB for yet another round of consideration:

25.1. *Harpreet Singh*

"*169. The jurisprudence emerging from these judgments recognizes that when a prisoner has served the maximum period of*

[12] Order dated 14.08.2025 in W.P.(CRL) 2518/2022

[13] 2026 SCC OnLine Del 899

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incarceration contemplated under state policy, such as 25 or 29 years, and continues to face repeated, arbitrary, or unreasoned rejections by the SRB, the High Court may directly intervene under Article 226 to prevent a "failure of justice." In such circumstances, where the SRB's decisions lack legal justification and the prisoner has demonstrated sustained good conduct and reform over decades, including multiple successful parole periods, remanding the matter back to the SRB would be futile, as held in Bilkis Yakub Rasool (supra). The incarceration, having become disproportionate and devoid of penological purpose, triggers the Court's duty to protect the prisoner's fundamental right to liberty under Article 21, warranting immediate release.

* * * * *

"172. The "futility" of the alternative remedy, as emphasized in the case of Whirlpool, (supra) is writ large on the face of the decisions. ***In its 12 rejections based on the same static ground i.e. the gravity of the original offense committed in 2003, the SRB has demonstrated a bureaucratic haze that is unlikely to be cured by a 13th Application. As this Court has repeatedly emphasized, the gravity of an offense is a static, historical fact - it will never change, no matter how many decades pass.*** *To allow the heinousness of a past act to act as a permanent bar to remission is to transform a life sentence into a retributive death by incarceration, rendering the State's reformative machinery entirely redundant."*

25.2. *Asif*

"*29. The next question is whether a remand is the appropriate recourse. In the facts and circumstances noted above, it is not. One remand has already been granted. The reconsideration has returned with substantially the same infirmity. A further remand would therefore serve little purpose other than prolonging incarceration, while the record continues to show no cogent material that answers the policy's rehabilitative criteria in the negative. When a statutory framework and a binding policy prescribe the manner in which the power is to be exercised, the executive cannot reduce the exercise to a formal ritual by repeating broad generalities and leaving the mandatory considerations untouched. The impugned reconsideration does exactly that. It reproduces the earlier defect, with the label of the "heinous offence" and a speculative apprehension of future risk,*

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without an evidence-linked assessment of antecedents and prison conduct to deny the request. Satish @ Sabbe makes the position clear. Where authorities fail to discharge the obligation of reasoned consideration despite judicial directions, a Constitutional Court may step in and issue a writ of mandamus to secure compliance, rather than consigning the prisoner to an endless cycle of reconsiderations. Further, the gravity of the original crime, however serious, cannot become the sole ground to refuse premature release once the policy threshold is crossed. Any assessment of the likelihood of reoffending must be grounded in material, including antecedents and conduct during incarceration, and not in vague fears or unreasoned assertions. Zahid Hussein v. State of W.B., reiterates the same principle, cautioning that conclusions about future criminality cannot rest on conjecture."

(emphasis supplied)

25.3. ***Rajab Ali vs. State (NCT of Delhi) & Anr.***[14]

"*91. In the present case, the Orders of the SRB are almost copy-paste and evidently, these Orders have been passed more as a formality, rather than following the principles of natural justice. They cannot qualify as reasoned orders, demonstrating transparency and fairness in a decision-making process. It is not the brevity of an Order, but it being devoid of reason, which is fatal. The complete opacity in reflected in the Orders, which are cryptic and the principles relevant for considering the remission of an inmate, are visible in the SRB Order. Unfortunately, there is no clarity or logic or reason, in the consistent rejection of the case of the Petitioner in the SRB Meetings.*"

* * * * *

"*94. The Petitioner has undergone 22 years 05 months 10 days of actual incarceration and over 28 years 08 months 28 days including remission. His continued detention despite fulfilling all the criteria and reflecting his complete reformation and loss of propensity to commit crime and fulfilling all the criteria laid down in the Remission Policy, 2004 as well as the Delhi Prison Rules, 2018 and denying him consistently the benefit of remission, directly impacts his Right to Life and Personal Liberty under Article 21. Where the State action*

[14] 2026 SCC OnLine Del 1498

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threatens the fundamental guarantee of liberty, the Courts are well empowered in exercise of their power of judicial review to intervene."

(emphasis supplied)

26. Reliance has also been placed on decisions of the Calcutta High Court in ***Afzal Khan & Anr. vs. State of West Bengal & Ors.***,[15] Rajasthan High Court in ***Rajmal vs. State of Rajasthan & Ors.***,[16] and Madras High Court in ***Manikandan vs. State***,[17] in which cases similar relief was granted by the concerned courts.

27. In order to place the issue in a broader jurisprudential context, the learned *Amicus* has also referred to international instruments and comparative jurisprudence to underscore the rehabilitative purpose underlying imprisonment and the recognition of a prisoner's right to be granted a meaningful opportunity for reintegration into society.

28. In particular, attention has been drawn to Rule 4(1) of the ***United Nations Standard Minimum Rules for the Treatment of Prisoners*** ('Nelson Mandela Rules'), adopted by the General Assembly on 17.12.2015, which reads as under:

> "*Rule 4*
>
> *1. The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.*"

(emphasis supplied)

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[15] 2024 SCC OnLine Cal 8000

[16] Order dated 18.09.2025 in W.P. No.2351/2025

[17] Judgment dated 02.08.2024 in W.P. No. 2068/2024

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29. It has been submitted that Rule 4(1) of the Nelson Mandela Rules recognizes reintegration of prisoners into society as one of the principal objectives of imprisonment and contemplates that the period of incarceration should, as far as possible, be geared towards preparing prisoners for a law-abiding and self-supporting life upon release from prison.

30. Ms. John has further submitted that certain provisions of the Nelson Mandela Rules were extracted and circulated by the Ministry of Home Affairs ('MHA') by way of an advisory dated 03.09.2020 concerning premature release, parole, and furlough. It has been pointed-out that the advisory was issued for the guidance of States and Union Territories in matters relating to the treatment and release of convicts. The relevant clauses of the MHA advisory read as follows:

> "*3. Counselling and psychological therapy have a significant role in addressing the issue of prisoner reformation. It may, therefore, be necessary for States to evolve and implement suitable behavioural therapy and counseling programs for inmates by involving Psychologists and other experts to bring in the desired behavioural changes.*
>
> "*4. At the same time, concerns have been expressed regarding recidivism, as in some cases, prison inmates, on temporary release from prison either on parole/furlough or on premature release, before completion of their sentence, have re-offended or indulged in criminal activities. This underlines the need to carefully regulate the grant of parole, furlough, remission and premature release to prisoners. It is, therefore, important for State authorities to review their guidelines to ensure that the facility and concession given to inmates, by way of parole, furlough and premature release etc., with the intention of providing them relief and rehabilitation, is not abused and misused by them and their advantage does not turn into disadvantage and nuisance for the society at large. The following provisions may, therefore, be included in the guidelines:*

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i) Grant of parole and furlough to those offenders, whose release may have adverse impact on the security of the State or safety of individuals, may be strictly restricted.

ii) The parole rules of States, including the criteria, duration and frequency may be reviewed after making an assessment based on their experience about the benefits and detriments of such parole.

iii) Parole and furlough may not be granted as a matter of routine and may be decided by a Committee of officers and behavioural experts, who may meet as per requirement, keeping in view all relevant factors, especially for inmates sentenced for sexual offences, serious crimes such as murder, child abduction, violence etc.

iv) <u>It may be useful to invariably include an expert Psychologist/Criminologist/Correctional Administration Expert as a member of the Sentence Review Board</u> and in the Committee which decides grant of parole and furlough to inmates and obtain their opinion before such temporary release.

"*5. Attention is also invited to some extracts of the United Nations Standard Minimum Rules for the Treatment of Prisoners, known as The Nelson Mandela Rules' (enclosed as Annexure), which are reiterated to all States/UTs for their general guidance and implementation.*"

(emphasis supplied)

31. Learned *Amicus* has also referred to a decision of the Constitutional Court of South Africa in ***Walus vs. Minister of Justice and Correctional Services & Ors***,[18] wherein the court was considering a challenge to the denial of parole (similar to the relief of remission under our criminal procedure code) in a case involving a political assassination. It has been pointed-out that the Constitutional Court of South Africa examined the factors relevant to the grant of parole and the propriety of denying such

[18] [2022] ZACC 39

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relief solely on account of the gravity of the underlying offence. Attention has been drawn to the fact that the prisoner had undergone more than 25 years of incarceration and had maintained a clean disciplinary record during imprisonment. It has further been submitted that the court ultimately directed the prisoner's release and emphasised that the constitutional guarantees and fundamental rights embodied in the Bill of Rights apply equally to all persons, including convicted prisoners. Relevant paras of *Walus* read as follows:

> "*[80] In his answering affidavit, all the Minister said was in effect that it was not his position that the applicant would never be released on parole. He never explained how he could release the applicant on parole in the future when the reasons that prevented him from releasing the applicant on parole in 2020 would still be present and would not have changed. What the Minister says in effect is that in 2020 he was prevented by the nature and seriousness of the crime and the trial court's and Supreme Court of Appeal's sentencing remarks from releasing the applicant on parole but some time in the future he could release him on parole despite the fact that the nature of the crime, its seriousness and the court's sentencing remarks would not have changed. Earlier I pointed out that the Department's policy requires that, as far as possible, a prisoner should be placed on parole as soon as possible after he or she has reached the date when he or she can be considered for parole. In this regard we must remember that the applicant's date when he became eligible to be considered for placement on parole was in 2005. That is seventeen years ago. That is close to 20 years ago. Furthermore, I also highlighted earlier that the Department's policy makes it clear that a prisoner must be evaluated fairly and justly for placement on parole.*
>
> * * * * *
>
> "*[84] Ordinarily, this Court would remit the matter to the Minister and direct that he considers the applicant's application for parole afresh and make a decision on whether or not the applicant should be placed on parole. That route enables the court to allow the functionary in whom the power to make a certain decision vests to*

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make the decision whether or not the applicant should be released on parole. However, it is not our law that a court will not under any circumstances either make the decision itself that was supposed to have been made by the functionary concerned or that it can never order such a functionary to make a particular decision. The courts in this country appreciated this even before the advent of democracy.

* * * * *

"*[86] After the advent of democracy, this continued to be the position. It is important to emphasise that courts only substitute their decisions for those of government functionaries in exceptional cases. It is not something the courts do lightly nor should they. Section 8 of PAJA deals with remedies in judicial review proceedings…*

* * * * *

"*[90] A period of more than 15 years has lapsed since the applicant became eligible for consideration to be placed on parole. It was in 2005 that the applicant became eligible to be considered for placement on parole. The Minister accepts that the applicant has shown remorse for the crime he committed. The evidence reveals that during his imprisonment all these years since 1993 the applicant has had no negative disciplinary record in prison. The Minister accepts that the applicant's risk of re-offending if he were to be placed on parole is low. The applicant has apologised to Mrs Hani and her family more than once. The applicant cannot do anything about the nature of the crime he committed, its seriousness nor can he do anything about the sentencing remarks that the trial court had made about him and the crime of which he was convicted. With regard to the factors the Minister took into account against the applicant the fact that, if the applicant were placed on parole, he would serve only a period of two years of his life sentence, should not have been taken into account. This is because that is a benefit that the law has given to the prisoners falling in the same category as the applicant and he is entitled to benefit from that law. In this regard it must be remembered that section 9(1) of the Constitution declares that "[e]veryone is equal before the law and has the right to equal protection and benefit of the law.":*

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> "*[92] The other factor that should be taken into account in deciding whether to remit the matter to the Minister or to order the Minister to place the applicant on parole is the history of this matter. That history reveals that not only has the applicant served 28 years of imprisonment of his life imprisonment sentence but he has also complied with all that the various Ministers of Correctional Services and the Parole Board have required him to do in order to improve his prospects of being granted parole.*
>
> * * * * *
>
> "*[96] In considering whether or not the applicant should be released on parole, I have been mindful of the fact that, in assassinating Mr Hani, the applicant sought to derail the attainment of democracy in this country and nearly plunged South Africa into a civil war. However, I have also borne in mind that, when the fathers and mothers of our constitutional democracy drafted our Constitution and included in it the Bill of Rights, they did not draft a Bill of Rights that would confer fundamental rights only on those who fought for democracy and not on those who had supported apartheid or who were opposed to the introduction of democracy in this country. They drafted a Bill of Rights that conferred fundamental rights on everyone including those who had supported apartheid with all their hearts. Indeed, they drafted a Bill of Rights which conferred fundamental rights even upon visitors to our country so that, upon entry into our country, they begin to enjoy the benefits and protections of our Bill of Rights. … …*"

(emphasis supplied)

32. Furthermore, Ms. John has also drawn attention to the decision of the European Court of Human Rights in the case of ***Vinter & Ors. vs. the United Kingdom***[19] to submit that the court therein held, that for a sentence of life imprisonment to remain compatible with the prohibition against inhuman or degrading treatment or punishment under Article 3 of the European Convention on Human Rights, there must exist both a

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[19] [2013] ECHR 645

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prospect of release and a possibility of review of the sentence. It has further been submitted that the court recognised that *a life sentence must be reducible both de facto and de jure, so that a prisoner is aware of the conditions upon which his release may be considered and has a meaningful opportunity to demonstrate rehabilitation*. Ms. John has further submitted that the Grand Chamber cautioned against a regime that denies a prisoner any prospect of release or review, observing that such a regime renders the sentence fixed and unreviewable, irrespective of the prisoner's progress towards reformation. The relevant observations are extracted below:

> *"108. First, a life sentence does not become irreducible by the mere fact that in practice it may be served in full. No issue arises under Article 3* [provision on prohibition of torture] *if a life sentence is de jure and de facto reducible (see Kafkaris, cited above, § 98).*
>
> *In this respect, the Court would emphasise that no Article 3 issue could arise if, for instance, a life prisoner had the right under domestic law to be considered for release but was refused on the ground that he or she continued to pose a danger to society. This is because States have a duty under the Convention to take measures for the protection of the public from violent crime and the Convention does not prohibit States from subjecting a person convicted of a serious crime to an indeterminate sentence allowing for the offender's continued detention where necessary for the protection of the public (see, mutatis mutandis, T. v. the United Kingdom, § 97, and V. v. the United Kingdom, § 98, both cited above). Indeed, preventing a criminal from re-offending is one of the "essential functions" of a prison sentence (see Mastromatteo v. Italy [GC], no. 37703/97, § 72, ECHR 2002-VIII; Maiorano and Others v. Italy, no. 28634/06, § 108, 15 December 2009; and, mutatis mutandis, Choreftakis and Choreftaki v. Greece, no. 46846/08, § 45, 17 January 2012). This is particularly so for those convicted of murder or other serious offences against the person. The mere fact that such prisoners may have already served a long period of imprisonment does not weaken*

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the State's positive obligation to protect the public; States may fulfil that obligation by continuing to detain such life sentenced prisoners for as long as they remain dangerous (see, for instance, Maiorano and Others, cited above).

* * * * *

"110. ***There are a number of reasons why, for a life sentence to remain compatible with Article 3, there must be both a prospect of release and a possibility of review****.*

"111. ***It is axiomatic that a prisoner cannot be detained unless there are legitimate penological grounds for that detention****. As was recognised by the Court of Appeal in Bieber and the Chamber in its judgment in the present case,* ***these grounds will include punishment, deterrence, public protection and rehabilitation. Many of these grounds will be present at the time when a life sentence is imposed. However, the balance between these justifications for detention is not necessarily static and may shift in the course of the sentence. What may be the primary justification for detention at the start of the sentence may not be so after a lengthy period into the service of the sentence. It is only by carrying out a review of the justification for continued detention at an appropriate point in the sentence that these factors or shifts can be properly evaluated****.*

"112. ***Moreover, if such a prisoner is incarcerated without any prospect of release and without the possibility of having his life sentence reviewed, there is the risk that he can never atone for his offence: whatever the prisoner does in prison, however exceptional his progress towards rehabilitation, his punishment remains fixed and unreviewable****.* ***If anything, the punishment becomes greater with time: the longer the prisoner lives, the longer his sentence****. Thus, even when a whole life sentence is condign punishment at the time of its imposition, with the passage of time it becomes – to paraphrase Lord Justice Laws in Wellington – a poor guarantee of just and proportionate punishment … …*

"113. Furthermore, as the German Federal Constitutional Court recognised in the Life Imprisonment case (see paragraph 69 above), it would be incompatible with the provision on human dignity in the Basic Law for the State forcefully to deprive a person of his freedom without at least providing him with the chance to someday regain that freedom. It was that conclusion which led the

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Constitutional Court to find that the prison authorities had the duty to strive towards a life sentenced prisoner's rehabilitation and that rehabilitation was constitutionally required in any community that established human dignity as its centrepiece. Indeed, the Constitutional Court went on to make clear in the subsequent War Criminal case that this applied to all life prisoners, whatever the nature of their crimes, and that release only for those who were infirm or close to death was not sufficient ... ...

Similar considerations must apply under the Convention system, the very essence of which, as the Court has often stated, is respect for human dignity (see, inter alia, Pretty v. the United Kingdom, no. 2346/02, § 65, ECHR 2002-III; and V.C. v. Slovakia, no. 18968/07, § 105, ECHR 2011 (extracts)).

"114. Indeed, there is also now clear support in European and international law for the principle that all prisoners, including those serving life sentences, be offered the possibility of rehabilitation and the prospect of release if that rehabilitation is achieved.

*"115. The Court has already had occasion to note that, **while punishment remains one of the aims of imprisonment, the emphasis in European penal policy is now on the rehabilitative aim of imprisonment, particularly towards the end of a long prison sentence** (see, for instance, Dickson v. the United Kingdom [GC], no. 44362/04, § 75, ECHR 2007-V; and Boulois v. Luxembourg [GC], no. 37575/04, § 83, ECHR 2012, with further references therein). In the Council of Europe's legal instruments, this is most clearly expressed in **Rule 6 of the European Prison Rules**, which provides that all detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty, and **Rule 102.1**, which provides that the prison regime for sentenced prisoners shall be designed to enable them to lead a responsible and crime-free life (see paragraph 77 above).*

"116. The relevant Council of Europe instruments set out in paragraphs 60–64 and 76 above also demonstrate, first, that commitment to rehabilitation is equally applicable to life sentence prisoners; and second, that, in the event of their rehabilitation, life sentence prisoners should also enjoy the prospect of conditional release.

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Rule 103 *of the European Prison Rules provides that, in the implementation of the regime for sentenced prisoners, individual sentence plans should be drawn up and should include, inter alia, preparation for release. Such sentence plans are specifically extended to life sentenced prisoners by virtue of Rule 103.8 … …*

Committee of Ministers Resolution 76(2) recommends that the cases of all prisoners – including life sentence prisoners – be examined as early as possible to determine whether or not conditional release could be granted. That resolution also recommends that review of life sentences should take place after eight to fourteen years of detention and be repeated at regular intervals … …

Recommendation 2003(23) (on the management by prison administrations of life sentence and other long-term prisoners) emphasises that life sentence prisoners should benefit from constructive preparation for release, including, to this end, being able to progress through the prison system. The recommendation also expressly states that life sentence prisoners should enjoy the possibility of conditional release (see, in particular, paragraphs 2, 8 and 34 of the recommendation and paragraph 131 of the report accompanying the recommendation, all set out in paragraph 61 above).

Recommendation 2003(22) (on conditional release) also makes clear that conditional release should be available to all prisoners and that life sentence prisoners should not be deprived of the hope of release (see paragraph 4(a) of the recommendation and paragraph 131 of the explanatory memorandum, both set out paragraph 62 above).

The Committee for the Prevention of Torture has expressed similar views, most recently in its report on Switzerland … …

* * * * *

"120. However, the Court would emphasise that, having regard to the margin of appreciation which must be accorded to Contracting States in the matters of criminal justice and sentencing (see paragraphs 104 and 105 above), it is not its task to prescribe the form (executive or judicial) which that review should take. For the same reason, it is not for the Court to determine when that review

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> *should take place. This being said,* ***the Court would also observe that the comparative and international law materials before it show clear support for the institution of a dedicated mechanism guaranteeing a review no later than twenty-five years after the imposition of a life sentence, with further periodic reviews thereafter*** *... ...*
>
> *"121. It follows from this conclusion that, where domestic law does not provide for the possibility of such a review, a whole life sentence will not measure up to the standards of Article 3 of the Convention."*

(emphasis supplied)

33. Ms. John has also sought to highlight the fact that there is arbitrariness even in the SRB's misconceived application of the criteria such as the gravity or heinousness of the original offence. It has been submitted that even applying those criteria, the SRB has not followed any consistent principles or practice.

34. To make good this submission, learned *Amicus* has placed reliance on extracts from Minutes of Meetings dated 21.10.2021, 30.06.2023, and 30.08.2024/18.09.2024, to point-out that even in cases of comparably grave nature and heinousness, such as murders committed by pouring acid or kerosene on victims, or cases involving kidnapping, rape, and/or murder of minor children, the SRB has in some cases recommended the release of prisoners, and in others, they have rejected it, often couched in nearly identical terms but without any discernible distinction.

35. Ergo, it is the learned Amicus' submission that the SRB's invocation of gravity as a ground for rejection is also applied selectively and without consistent or principled reasoning.

36. Summarizing the aforesaid submissions, learned *Amicus* has submitted that the following principles emerge from the existing statutory

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framework, the applicable policies, and the judicial precedents governing the exercise of power under section 432 of the Cr.P.C.:

36.1. The power to grant remission of sentence or premature release is an executive function, which is structured and anchored in both binding policy framework and constitutional discipline. While a convict has no indefeasible right to remission, they have a legal right to fair, non-arbitrary and meaningful consideration for premature release in accordance with law.

36.2. Remission concerns only the execution of the sentence and not the nature of the conviction or the kind of sentence imposed by the court.

36.3. The object of the remission framework is reformative and not retributive. Consideration of convicts for premature release must therefore be informed by the principles of rehabilitation and reintegration into society.

36.4. The factors governing consideration for premature release stand exhaustively delineated in the applicable policies as well as in the decisions of the Supreme Court and this court.

36.5. As noted by the Supreme Court in *Laxman Naskar* and reiterated in *Satish alias Sabbe*, when considering a plea for premature release of a convict, the inquiry must be forward-looking and based on objective parameters, including the convict's propensity to commit another offence, demonstrable reformation, purpose and use of continued incarceration, and the broader socio-economic context. The gravity of the original offence, by itself, cannot constitute the sole or determinative factor for rejecting a plea for premature

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release once the threshold period of incarceration under the policy is met.

36.6. The SRB is under obligation to undertake an individualised and reasoned assessment of each prisoner. In doing so, the SRB is required to accord due weight to the reports and assessments of the Chief Probation Officer, the Social Welfare Department, and the Prison Authorities, rather than treating such material in a perfunctory manner or without giving it due weightage.

36.7. The material placed before the court, including the minutes of the meetings of the SRB, shows that in several cases, requests for premature release are rejected by placing disproportionate emphasis on the gravity of the offence, while relying upon rote reasoning and overlooking relevant material bearing upon the convict's reformation and suitability for release. According to the learned *Amicus* such an approach is inconsistent with the governing policies and judicial precedents and renders the decision-making process mechanical and completely arbitrary.

36.8. The power of judicial review under Article 226 of the Constitution extends to the High Court examining the legality of the decisions taken by the SRB. While constitutional courts ordinarily refrain from substituting their own view in place of the executive decision, they are empowered to intervene where the exercise of discretion by the executive is in disregard of the applicable policy framework and judicial precedents and rendering them arbitrary and perverse.

36.9. In appropriate cases, where repeated reconsideration by the SRB has failed to remedy fundamental defects in the decision-making

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process, and a remand would merely prolong unlawful deprivation of liberty, this court may, in the exercise of its powers under Article 226 of the Constitution, grant effective relief, including by directing the release of a convict.

36.10. International standards and comparative jurisprudence also recognise that prolonged incarceration must be amenable to a meaningful review and a realistic prospect of release, consistent with the objectives of rehabilitation and reintegration into the society.

IV. SUBMISSIONS ON BEHALF OF STATE

37. Placing the State's perspective in the matter, Mr. Bhandari learned ASC (Criminal) has submitted that while rejecting the petitioners' pleas for premature release, the SRB has duly considered all relevant factors in accordance with the applicable policy and settled principles governing premature release. It has been contended that no straight-jacket formula can be applied either by the SRB or by this court while considering cases for premature release since each case is required to be evaluated on its own facts.

38. Reliance has been placed by the State on Rule 1251 of the Delhi Prison Rules to contend that the said rule prescribes the eligibility criteria for premature release, including factors such as the convict having lost the 'potential' of committing crime, the possibility of reclaiming the convict 'as a useful member of society', and the socio-economic condition of the convict's family. It has been submitted that the SRB has arrived at its decision in relation to the petitioners after duly appreciating all such relevant factors.

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39. Furthermore, it has been submitted that a perusal of the impugned minutes of meetings of the SRB would show that they have duly considered the nature of the crime committed by the petitioners, their conduct in jail, the gravity and heinousness of the crime, objections by the police department, as well as the societal impact that would befall if the petitioners were to be released.

40. Learned ASC has placed reliance on the decision of the Supreme Court in ***Navas alias Mulanavas vs. State of Kerala***[20] to contend that while determining the minimum period of incarceration to be undergone by a life convict before the power of remission may be invoked, this court is required to consider a host of aggravating and mitigating circumstances. The relevant observations in *Navas alias Mulanavas,* as pointed-out by the State, read as follows:

> "*79. Illustratively, in the process of arriving at the number of years as the most appropriate for the case at hand, which the convict will have to undergo before which the remission powers could be invoked,* ***some of the relevant factors that the courts bear in mind are****:*
>
> *(a) the* ***number of deceased*** *who are victims of that crime and their age and gender;*
>
> *(b) the* ***nature of injuries including sexual assault*** *if any;*
>
> *(c) the* ***motive*** *for which the offence was committed;*
>
> *(d)* ***whether the offence was committed when the convict was on bail*** *in another case;*
>
> *(e) the* ***premeditated nature*** *of the offence;*
>
> *(f) the* ***relationship between the offender and the victim****;*
>
> *(g) the* ***abuse of trust*** *if any;*
>
> *(h) the* ***criminal antecedents****; and whether the convict, if released, would be a* ***menace to the society****.*
>
> *Some of the positive factors have been:*

[20] (2024) 14 SCC 82

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(1) ***age*** *of the convict;*
(2) the ***probability of reformation*** *of convict;*
(3) the convict ***not being a professional killer****;*
(4) the ***socio-economic condition*** *of the accused;*
(5) the ***composition of the family*** *of the accused; and*
(6) ***conduct expressing remorse****.*"

(emphasis supplied)

41. Reliance has also been placed by the learned ASC on the decision of the Co-ordinate Bench of this court in ***Nazir Khan vs. State of NCT of Delhi*** [21] to contend that even in cases where the Social Welfare Department recommends the premature release of a convict, such recommendation does not confer upon a convict an enforceable right to be released.

42. It has also been pointed-out that in ***Nasir Mohd Sodozey @ Aftaab Ahmed @ Abdullah vs. State of NCT of Delhi***[22] a Co-ordinate Bench of this court has upheld the decision of the SRB rejecting the petitioner's plea for premature release solely on the basis of the gravity of the offence and its impact on society.

43. Furthermore, learned ASC has submitted that parity with other convicts who have been released also cannot be a ground for premature release. In this behalf, attention is drawn to the following paras of the decision of the Co-ordinate Bench of this court in *Santosh Kumar Singh*:

> *"81. Although this Court broadly concurs with most of the Petitioners' submissions, their invocation of Article 14 of the Constitution cannot be sustained. The Petitioners have urged that the refusal to grant them premature release, despite the comparable gravity of their offences and their claimed prison conduct and reformation efforts mirroring those of convicts who have been*

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[21] 2022 SCC OnLine Del 4458
[22] Judgment dated 21.08.2025 in W.P.(CRL) 3756/2023

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released, constitutes discriminatory treatment in breach of Article 14. At first glance, this argument might appear compelling. However, such a superficial comparison cannot satisfy the rigorous threshold of Article 14. The constitutional guarantee under Article 14 proscribes arbitrary or irrational classification but does not mandate uniformity of outcome where the decision is based on multifactorial and case-specific assessments.

"82. The very framework of premature release is predicated not on the nature of the offence alone, grave or otherwise, but on a holistic evaluation of multiple dynamic factors. These include the convict's conduct in prison, likelihood of reformation, risk of recidivism, psychological profile, victim or societal response, and whether the release would serve any meaningful rehabilitative purpose. Merely pointing to the release of other convicts with similar convictions does not, ipso facto, establish discrimination. Accepting parity solely on perceived similar conduct would undermine the very concept of individualized assessment and judicial discretion, transforming a nuanced qualitative evaluation into a mechanical entitlement. Such an approach would run counter to the ethos of the premature release policy, which is anchored in calibrated, case-specific consideration rather than a one-size-fits-all formula. Accordingly, this Court finds no violation of Article 14."

(emphasis supplied)

44. The State has submitted that it is the settled position of law that a life convict has no inherent or vested right to *claim* premature release since life imprisonment means 'the whole life of the convict in jail'; and that the *right* of the petitioners is confined only to having their cases *considered* for remission, in accordance with law. In this behalf, reliance has been placed on *V. Sriharan*, *Mahender Singh*, and *Santosh Kumar Singh*. Reference has also been made to the decision of the United States Court of Appeal in Case No.79/1997 titled ***Connecticut Board of***

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Pardons vs. Dumschat[23] where the court held that a convict only has a 'mere hope' of pardon and has no statutory right to be released from a valid prison sentence independently of a right explicitly conferred by the State.

45. It is also the State's submission that repeated rejections of a convict's case on the same grounds by the SRB do no automatically establish that the SRB has acted mechanically or without application of mind. According to the State, the SRB considers the facts of each case independently on the basis of the reports submitted by the concerned police authorities and the Chief Probation Officer. In this behalf, reliance has been placed on a decision of the Co-ordinate Bench of this court in ***Amjad Ali Mughal vs. The State (Govt. of NCT) of Delhi***.[24]

46. Furthermore, learned ASC has submitted that if this court were to find merit in the arguments made in favour of the petitioners' release, and was to be inclined to set-aside the decision taken by the SRB, even then this court would not pass an order releasing the petitioners directly. It has been contended, that the mere finding that the SRB's decision is unreasoned or suffers from non-consideration of relevant factors does not justify a direction by this court for a convict's premature release; and that unless this court itself records *affirmative findings* on all factors relevant to remission, the appropriate course would be to remand the matter to the competent authority for fresh consideration.

47. According to the State, a direction for premature release by this court would tantamount to this court exercising the executive power of

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[23] 452 U.S. 458

[24] Order dated 22.05.2025 in W.P.(CRL) No.1577/2022

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remission, which falls outside the permissible scope of judicial review. In support of this submission, the State has placed reliance on the following decisions of the Supreme Court:

47.1. ***State of Haryana & Ors. vs. Daya Nanda***[25]

> "*We are in agreement with the submission of learned counsel for the petitioner in this behalf that it was not within the domain of judicial review for the learned judge to have himself exercised the power of remission. However, we would not like to exercise jurisdiction under Article 136 of the Constitution of India at this stage as the respondent stands enlarged 9 months back and no purpose would be served in sending him back to custody and for the State to once again examine the request for remission.*"
>
> (emphasis supplied)

47.2. ***Ram Chander vs. State of Chhatisgarh & Anr.***[26]

> "*14. While the court can review the decision of the Government to determine whether it was arbitrary, it cannot usurp the power of the Government and grant remission itself. Where the exercise of power by the executive is found to be arbitrary, the authorities may be directed to consider the case of the convict afresh.*"
>
> (emphasis supplied)

48. Reliance has also been placed on the decisions of the Supreme Court in ***State of Haryana & Ors. vs. Jagdish***[27] and ***Rajan vs. Home Secretary, Home Department of Tamil Nadu & Ors.***,[28] to contend that the scope of judicial review in cases relating to remission is limited.

49. It has been pointed-out on behalf of the State that considerations such as *societal acceptance*, *deterrence*, and *victim-impact* form part of the

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[25] Order dated 10.11.2022 in SLP (Crl.) No.10687/2022
[26] (2022) 12 SCC 52
[27] (2010) 4 SCC 216, para 30
[28] (2019) 14 SCC 114, para 20

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exercise undertaken by the SRB while considering a case for premature release. According to the State, such complex assessments lie squarely within the domain of the SRB. In support of this submission, the State has relied upon the following paras of the decisions of the Co-ordinate Benches of this court:

49.1. ***Shashi Shekhar @ Neeraj vs. State of The NCT of Delhi & Ors.***[29]

> "*18. Having considered the aforesaid submissions, and the several decisions relied upon by the learned counsel on both sides, it is, firstly, clear that life sentence is not limited to either 14 years, or 20 years, or even 25 years. A life sentence means the actual life imprisonment for the entire life of the convict. The same may be curtailed by the State by premature release. However, that is the discretion of the State Government to be exercised on the advice of the SRB. The SRB itself has to arrive at its opinion on the aspect of premature release on sound principles.* ***It should have good reasons for allowing or disallowing the application for premature release made by a convict.*** *The Courts cannot substitute the discretion of the State/SRB with its own discretion. If the Court finds that the said discretion has not been properly exercised with due application of mind, the Court may set aside the order rejecting the application seeking grant of premature release and may remit the case back for reconsideration. However, the Court would not, on its own, undertake the exercise of considering whether or not to grant premature release to a convict.*"

(emphasis supplied)

49.2. *Santosh Kumar Singh*

> "*48. Therefore, it is now well-settled that the constitutional and statutory power to grant remission is vested exclusively in the executive, and this Court must not assume the role of the authority by substituting its own view for that of the SRB or the Government. However, where the decision of the SRB is challenged on grounds of procedural unfairness, arbitrariness, or non-application of mind, the Court is not powerless. Judicial review, though limited in scope, must*

[29] 2016 SCC OnLine Del 6284

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be exercised where the discretion by the SRB or the appropriate Government is found to be is patently illegal, vitiated by constitutional violations, or rejection of a claim for remission, without reasonable justification.

* * * * *

"*117. The power to grant premature release is not a continuation of the judicial sentencing process, but a distinct, post-conviction executive function grounded in the philosophy of reformation. While sentencing is a judicial function based on the facts and legal findings of the offence committed, the question of release involves a different enquiry altogether, one that balances the convict's transformation with public interest and societal impact.* ***This balance is best drawn not by the Court, but by the SRB, which is constituted precisely for this purpose****. The SRB comprises representatives from the judiciary, prison administration, social welfare, and law enforcement - each contributing a unique institutional perspective to the overall evaluation. This diversity of viewpoints is critical because the assessment of a convict's readiness for reintegration into society cannot rest on a singular, siloed perspective. Such a determination involves complex considerations: whether the individual has undergone genuine reformation, whether they retain criminal propensity, how their release might affect public confidence in the justice system, and what rehabilitative support systems are available.*

"*118. While this Court is empowered to ensure that such decisions are not arbitrary or procedurally flawed, it must resist the temptation to sit in judgment over the merits of individual release applications unless a clear and egregious miscarriage of justice is made out. The institutional design of the SRB is a deliberate one. It exists to bring coherence to a process that is neither entirely judicial nor entirely administrative, but straddles the boundaries of both. Particularly in cases involving heinous offences, where the punishment of life imprisonment has been upheld on the judicial side, the decision to grant premature release must be subjected to heightened scrutiny, not only in terms of the convict's prison conduct but also from the lens of societal acceptance, deterrence, and victim impact. Such a complex assessment lies squarely within the domain of the SRB.*"

(emphasis supplied)

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50. The State has also sought to distinguish the decision of the Supreme Court in the case of *H. Nilofer Nisha* by contending that the direction for direct release of the convict was issued by the Supreme Court in exercise of its power under Article 142 of the Constitution. Learned ASC has submitted that *the very invocation of Article 142 shows that a similar power cannot ordinarily be exercised under Article 226*.

51. Learned ASC has submitted that offences committed by the petitioners are of extreme brutality and moral depravity. It is pointed-out, that the petitioner in W.P.(CRL) No.2875/2025 – Ramesh s/o Jaswant – raped a 4-year old child as an act of vengeance after the child's mother refused his marriage proposal; and the petitioner in W.P.(CRL) No.578/2025 – Tasleem s/o Islamuddin – alongwith other co-accused persons raped a Nepali national woman. It has been submitted that these barbaric acts reflect complete disregard for human dignity and societal norms, and crimes of such nature shock the collective conscience of the society and create a deep sense of fear among citizens. Furthermore, it has been submitted that granting remission to the petitioners merely on account of long period of incarceration would have a deleterious impact on the society at large.

52. In view of the aforesaid submissions, the State has contended that the SRB has passed the common impugned order in accordance with the settled principles of law; and the petitions are devoid of merit and ought to be dismissed.

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V. PRINCIPLES FOR PREMATURE RELEASE

53. Upon a conspectus of the legal landscape emerging from the judicial precedents cited, this court would elucidate the concept of remission in the following words:

53.1. The concept of 'remission' embedded in section 432 of the Cr.P.C. concerns the shortening, by the State, of the sentence imposed by a court of law. Remission does not affect the guilt of a convict as established at the trial, nor does it affect the sentence as such; it affects only the execution of the sentence.[30]

53.2. To be sure, remission is neither pardon nor amnesty - that is to say, it is not a general pardon, nor a reprieve, nor a respite, nor a commutation of sentence.[31]

53.3. Several considerations have been enunciated by the courts for remission of sentence based on the statutory provisions, the 2004 Guidelines, and the Delhi Prison Rules, which may be summarised as follows:

(a) the 'propensity' of the convict to commit an offence again, which is to be assessed on the basis of the convict's jail conduct as well as their antecedents;

(b) the purpose that would be served by the continued confinement of the convict in prison, including whether the convict continues to pose a danger to society; and

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[30] Bilkis Yakub Rasool vs. Union of India & Ors., (2024) 5 SCC 481

[31] Bilkis Yakub Rasool relying on State (NCT of Delhi) vs. Prem Raj, (2003) 7 SCC 121

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(c) the socio-economic condition of the convict's family arising from his continued incarceration.[32]

53.4. The gravity of the original offence and the length of the sentence imposed by the court are, by themselves, not relevant considerations while deciding a plea for premature release. The gravity of the original offence and the length of the sentence imposed are static and historical facts, which neither the convict nor the passage of time can alter. Were these considerations to be treated as dispositive of a plea for premature release, no convict would ever qualify for premature release.[33]

53.5. Baseless and unsubstantiated apprehension on the part of the victims or witnesses is also not a criterion that is dispositive of a request for premature release. Any assessment regarding the predilection of a convict to commit crime upon release must not be based merely on the apprehensions of victims and witnesses but on the convict's antecedents and conduct while in jail.[34]

53.6. Legitimate penological grounds for continued incarceration would aim for a *balance* between punishment, deterrence, protection of the public, and rehabilitation of the convict. A policy under which punishment becomes progressively greater with the passage of time - as it invariably would in the case of a life sentence - would not comport with the loftier concept of justice, but would descend into

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[32] Laxman Naskar vs. Union of India & Ors., (2000) 2 SCC 595; substantially reiterated in Rule 1251 of the Delhi Prison Rules

[33] Joseph vs. State of Kerala & Ors., 2023 SCC OnLine SC 1211; Satish alias Sabbe vs. State of Uttar Pradesh, (2021) 14 SCC 580

[34] Zahid Hussein v. State of W.B., (2001) 3 SCC 750 : 2001 SCC (Cri) 631; Satish alias Sabbe

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a wrathful and vengeful system, transforming a life sentence into retributive death by incarceration and would render the State's reformative machinery redundant.[35]

53.7. The consideration that, if a person convicted for a heinous offence were to be prematurely released, a "wrong" or "negative" message would go out to society against the justice system, is *not* a relevant factor, and is a consideration *de hors* the statutory criteria.[36]

53.8. The pre-conviction and post-conviction periods are *two separate and distinct* phases for purposes of considering a plea for premature release. It is the convict's conduct in the post-conviction phase that is relevant for purposes of Rule 1244 of the Delhi Prison Rules. In view of the said Rule, the post-conviction conduct of a convict is the principal indicator of reformation while assessing the desirability of premature release, and in the absence of contemporary and cogent evidence to the contrary, sustained good conduct in custody cannot be ignored or discounted.[37]

53.9. The SRB is bound by the principles enunciated in the 2004 Guidelines, from which its discretion to grant or deny premature release emanates; and such discretion must be exercised in a *just and reasonable* manner, after due and proper consideration of all *relevant* material.[38]

53.10. Mere opposition by the police authorities to premature release is irrelevant, unless it is supported by cogent material; the SRB is not

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[35] Harpreet Singh, Order dated 14.08.2025 in W.P.(CRL) 2518/2022
[36] Satish alias Sabbe vs. State of Uttar Pradesh, (2021) 14 SCC 580
[37] Zahid Hussein v. State of W.B., (2001) 3 SCC 750 : 2001 SCC (Cri) 631; Satish alias Sabbe
[38] Santosh Kumar Singh vs. State (Govt. of NCT of Delhi), 2025 SCC OnLine Del 10585

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to decline premature release of a convict merely on the ground that the police have not recommended release.[39]

53.11. Where a convict has transitioned through the incarceration process and has, after due consideration, been moved from regular prison to a semi-open prison and thereafter to an open prison, with a good 'report card' through those stages, such progression is a critical factor that ought to imbue any assessment of premature release. The convict's propensity for crime cannot be an arbitrary, subjective assessment but must be based on objective factors which are ensconced in the eligibility conditions for a convict being moved to a semi-open prison, and the even more stringent requirements to qualify for open prison.[40]

53.12. Where the decision of the SRB to deny premature release suffers from manifest arbitrariness, or from a failure to discharge its statutory obligations, or is found to be in violation of Article 21 of the Constitution, constitutional courts are empowered to intervene and direct that the convict be released, instead of remanding the matter to the SRB for reconsideration. In doing so, a constitutional court *does not* exercise the power under section 432 or section 433 of the Cr.P.C., which lies within the domain of the executive, but acts in discharge of its constitutional role under Article 226 or

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[39] Sushil Sharma vs. State, 2018 SCC OnLine Del 13277; Rule 1257(c), Delhi Prison Rules and clause 5(iii) of the 2004 Guidelines

[40] Vijay Kumar Shukla vs. State NCT of Delhi & Anr. 2024 SCC OnLine Del 7805

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Article 32 of the Constitution. In so doing, the constitutional court exercises *judicial power*, and *not the executive power* of the State.[41]

53.13. Further, in cases where a convict has served the maximum period of incarceration contemplated under State policy - be it 20 or 25 years or as the policy may otherwise stipulate - and has faced repeated, arbitrary, or unreasoned rejection at the hands of the SRB, the High Court may *directly intervene* under Article 226 of the Constitution to prevent failure of justice. In such circumstances, remanding the matter to the SRB for yet another round of consideration would be futile.[42]

53.14. If the rehabilitative concept of penology is to have any meaning, a life sentence *must be reducible*, so that a convict has the incentive and motivation to reform himself and is afforded a meaningful opportunity for rehabilitation and reintegration into society. Were there to be no possibility of review of a life sentence under domestic law and policy, such legislation would not measure up to the standards of Article 3 of the European Convention on Human Rights, which requires both a prospect of release and a possibility of review, such that the sentence is reducible both *de facto* and *de jure*.[43]

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[41] Home Secretary (Prison) & Ors. vs. H. Nilofer Nisha, (2020) 14 SCC 161; Union of India vs. V. Sriharan alias Murugan & Ors., (2016) 7 SCC 1; Satish alias Sabbe

[42] Harpreet Singh, Order dated 14.08.2025 in W.P.(CRL) 2518/2022; Asif vs. State (Govt. of NCT of Delhi), 2026 SCC OnLine Del 899

[43] Constitutional Court of South Africa in Walus vs. Minister of Justice and Correctional Services & Ors., 2022 ZACC 39; European Court of Human Rights in Vinter & Ors. vs. United Kingdom; [2013] ECHR 645

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VI. SUBMISSIONS ON BEHALF OF PETITIONERS IN W.P.(CRL) No.2875/2025 – RAMESH S/O JASWANT

54. Ms. Sowjhanya Shankaran, learned counsel appearing for the petitioner - **Ramesh** - has adopted the legal submissions advanced by the learned *Amicus*. In addition, with specific reference to the facts and circumstances of this petitioner's case, learned counsel has made the following supplemental submissions:

54.1. The petitioner, who was about 19 years of age at the time of incident, and is now aged about 58 years, was convicted for the offences punishable under sections 302/376/377/364 of the IPC in case FIR No.198/1992 registered at P.S.: Anand Parbat, Delhi; and was sentenced to death by the learned Sessions Court.

54.2. In Death Reference No.02/1997, the petitioner alongwith the co-convict Sunil was acquitted by this court. However, on appeal, the Supreme Court reversed the acquittal, altered the petitioner's conviction under section 302 IPC to one of culpable homicide under section 304-II of the IPC, while maintaining the convictions under sections 376/377/34 of the IPC; and sentenced the petitioner to rigorous life imprisonment.

54.3. As per nominal roll dated 05.01.2026, the petitioner has suffered *more than 31 years of actual imprisonment* as of 03.01.2026, and *more than 40 years of incarceration with remission*.

54.4. In terms of the Delhi Prison Rules, the petitioner became eligible for consideration for premature release upon completion of 10 years of actual imprisonment and 14 years of incarceration with remission. However, despite satisfying the prescribed eligibility

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criteria, the SRB has rejected the petitioner's plea for premature release *on 18 occasions*, on substantially identical and repetitive grounds without undertaking a meaningful, individualized reassessment of his case.

54.5. The petitioner has remained gainfully employed at Tihar's Printing Unit for over 25 years and has been earning around Rs.412/- per day. It has been submitted that the petitioner has received numerous skill development certificates *viz.,* National Certificates in Modular Employable Skills (from 2010 onwards), Yoga Practitioner Certificates, and Certificates of Recognition in acknowledgment of his commendable work in the paper unit. Counsel points-out that the petitioner's consistent employment in jail, coupled with his exemplary conduct and numerous skill development certifications clearly demonstrate sustained reformation and rehabilitation; and that his recognized contributions to prison work, alongwith commendations for discipline and diligence reflect that he is no longer a threat to the society and is well prepared for reintegration into the society.

54.6. During the petitioner's actual incarceration of more than 31 years, he has been released on parole and furlough about *32 times*, aggregating to *more than 650 days outside prison*, without a single instance of misuse; and that the petitioner has consistently surrendered on time and has maintained impeccable conduct. It has been pointed-out that even during the period following his acquittal by this court, no instance of recidivism was exhibited by the petitioner.

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54.7. Pertinently, the petitioner has *not received a single jail warning, punishment, or adverse report in over 03 decades of incarceration*, embodying the very standard of a model prisoner, thereby reflecting complete reformation, discipline, and readiness to reintegrate into the society.

54.8. Counsel has pointed-out that although the decision dated 30.06.2023 of the SRB rejecting the petitioner's case for premature release was set-aside *vidé* order dated 02.04.2024 passed by a Co-ordinate Bench of this court in W.P.(CRL.) No.1041/2024, with a direction to the SRB to reconsider petitioner's case in terms of the parameters laid-down by the Supreme Court in *Ram Chander*, the SRB has once again rejected the petitioner's case on substantially the same grounds, without due application of mind to the directions issued by this court or the governing legal principles.

54.9. The petitioner was last considered for premature release in August 2024, and though thereafter, the SRB has held several meetings, they have not considered the petitioner's case, which is in violation of Rule 1257(d) of the Delhi Prison Rules mandating consideration of a convict's case for remission every 06 months.

54.10. A perusal of the Minutes of the SRB Meetings dated 01.10.2013, 06.01.2016, 01.09.2016, 06.09.2017, and 28.02.2020 would show that the *SRB has repeatedly mis-characterized the nature of the petitioner's conviction as that for 'murder' despite the Supreme Court having conclusively altered his conviction to 'culpable homicide not amounting to murder' punishable under section 304-II of the IPC alongwith offences under section*

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376/377/34 IPC; and this fundamental error goes to the root of the matter since the eligibility criteria for premature release differ significantly between murder convicts and other life convicts. It has been submitted that the prisoners convicted of murder are governed by section 433A of the Cr.P.C. and become eligible for consideration for premature release after serving 20 years of incarceration (including remission), while life convicts such as the petitioner are eligible for consideration upon completion of 14 years of incarceration including remission. Counsel has submitted that the reliance placed by the SRB on an absolutely incorrect characterization in the initial meetings has materially prejudiced the consideration of petitioner's case in subsequent meetings.

54.11. The reasoning adopted by the SRB also suffers from clear internal inconsistency. As would be seen from Minutes of Meeting dated 06.09.2017 the SRB had unequivocally recorded that the petitioner had *"Nil"* propensity for committing crime; however in subsequent rejections, including in the impugned minutes, the SRB has mechanically asserted that the possibility of reoffending cannot be ruled out, without citing any intervening adverse conduct or fresh material to justify such a reversal of view. This unexplained departure is starkly contradicted by the petitioner's sustained record of exemplary conduct, including continuous skill development, multiple certifications, and commendation rolls awarded since 2010, each reinforcing the absence of any criminal propensity.

54.12. The opposition recorded by the Chief Probation Officer in Minutes of Meeting dated 25.06.2021 or by the Director, Social

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Welfare Department in Minutes of Meetings dated 28.02.2020, 05.08.2020, 11.12.2020, 21.10.2021 stands in stark and unexplained contradiction to the consistent recommendations of their own respective departments *i.e.,* the recommendations of the Probation Officer and Social Welfare Officer, both of whom have supported the petitioner's premature release consistently in nearly every meeting. It has been submitted that no reasons, material, or recorded justification have been provided to explain this divergence in stance within the same departments. Such unexplained opposition, bereft of any supporting basis, cannot be accorded weight - particularly when it runs contrary to the considered assessments of the very officials and authorities who are in direct and consistent supervision of the petitioner, namely the Probation Officer and the Social Welfare Officer. It has been submitted that having closely observed the petitioner's conduct and reformation over time, the consistent, reasoned recommendations of these functionaries, merit far greater credence.

54.13. The impugned order places undue reliance on broad, generalized expressions such as "*desperation crime*," "*shakes the confidence of the society*," and "*not be in the interest of the society at large*," without undertaking the structured, criteria-based assessment mandated by the applicable Delhi Prison Rules, and the prior directions passed by this court. It has been contended that such conclusory observations, unaccompanied by specific reasoning or material, fail to meet the required standard of sound decision-making in exercise of executive power. Furthermore, it has been

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pointed-out that the mere opposition by the police, in the absence of cogent and substantiated reasons, cannot constitute a valid ground for rejection of the petitioner's case for premature release.

54.14. The socio-economic condition of the petitioner has also not been duly considered in the course of the previous 18 rejections. It has been submitted, that the convict's family is in a state of acute financial distress and vulnerability; the petitioner's 85-year-old mother, who is in a frail and ailing condition, resides in a single-room dwelling along with his younger brother, aged approximately 55 years; and that the convict's brother, who was previously employed as a security guard and occasionally engaged in distemper work, is presently unemployed and is himself suffering from serious kidney-related ailments, rendering him incapable of maintaining a stable source of livelihood.

54.15. The sole means of sustenance for the petitioner's family is his earnings accrued through prison labour, amounting to approximately Rs.12,000/- per month and the monthly widow pension of Rs.2,500/- per month received by his mother; and the petitioner's family is entirely dependent upon this limited income for their survival.

54.16. During his incarceration, the petitioner has acquired vocational skills in printing on garments such as T-shirts and jeans, and has expressed a *bona-fidé* intention to establish a small-scale printing enterprise upon release. It has been submitted that this would enable the petitioner to secure a stable livelihood and provide necessary financial and medical support to his dependent family members.

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54.17. It has been submitted, that in terms of Rules 1321 and 1322 of the Delhi Prison Rules, the petitioner is entitled to be considered for transfer to a semi-open prison, and thereafter, in accordance with Rules 1325 and 1326, to an open prison. However, despite the prolonged period of incarceration, no such consideration or transfer has been undertaken; and the petitioner continues to remain confined in a regular prison, in violation of the applicable rules.

54.18. Though 07 SRB meetings dated 10.12.2024, 02.04.2025, 24.04.2025, 30.07.2025, 16.10.2025, 23.12.2025, and 14.01.2026 have taken place subsequent to the impugned order passed by the SRB, yet the petitioner's case has not been re-considered. It has been submitted that this reflects an additional aspect of procedural unfairness, which reinforces the arbitrary character of the SRB's decision-making process.

54.19. Furthermore, it has been contended that merely remanding the petitioner's case to the SRB for reconsideration, at this stage, is unlikely to yield any meaningful or positive outcome, particularly in light of the consistent past non-consideration of the petitioner's case, thereby causing continued prejudice to the petitioner.

54.20. It has been prayed that the impugned minutes of the SRB's meeting and the order passed by the Government of NCT of Delhi, Home (General) Department be set-aside and the petitioner be released from custody *forthwith*.

IN W.P.(CRL) No.578/2025 – TASLEEM S/O ISLAMUDDIN

55. Mr. Sarthak Maggon, learned counsel appearing for the petitioner - **Tasleem** - has also adopted the legal submissions advanced by the

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learned *Amicus*. In addition, with reference to the facts and circumstances of this petitioner's case, learned counsel has made the following submissions:

55.1. The petitioner who was about 28 years at the time of the offence, and is now aged about 53 years, was convicted for the offence under section 376(2)(g) of the IPC in case FIR No.571/1997 registered at P.S.: Kalyanpuri, Delhi; and was sentenced to imprisonment for life, which conviction and sentence were affirmed in appeal.

55.2. Though the petitioner's case for premature release is governed by the policy prevailing prior to the 2004 Guidelines as well as the Delhi Prison Rules, however since the erstwhile policy has not been uploaded online, the petitioner seeks consideration under the 2004 Guidelines, under which a convict becomes eligible for consideration after undergoing 10 years of actual imprisonment and 14 years of incarceration including remission. It was pointed-out that as per nominal roll dated 06.10.2025, the petitioner has undergone *more than 15 years of actual imprisonment* and has earned *remission of more than 3 years* as of 06.10.2025, thereby satisfying the eligibility criteria for being considered for premature release.

55.3. The petitioner's plea for premature release has been *rejected on 03 previous occasions* by the SRB *viz.*, at their meetings held on 25.06.2021, 21.10.2021, and 30.06.2023, substantially on the same grounds.

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55.4. During the pendency of the present petition, the petitioner was again considered by the SRB for premature release; however his plea has been rejected again.

55.5. The reports of the Social Welfare Department, and the Prison Authorities have recommended the petitioner's release, while the police authorities have neither recommended nor opposed the same. It has been submitted that no adverse report has been received from the petitioner's native police station.

55.6. The reasons assigned by the SRB for rejecting the petitioner's plea for premature release are the nature, gravity, heinousness, and perversity of the offence; the presumed brutality of the offence; the age of the convict; and the perceived possibility of re-offending since the petitioner's conduct in jail was not determinative of his post-release conduct; and the SRB's stated concern for "*faith of general public in the legal system*". It has been submitted that none of these considerations can justify repeated rejections of the petitioner's plea for premature release by the SRB.

55.7. On the aspect of rehabilitation, it has been submitted that the petitioner intends to reintegrate into society, engage in lawful employment, and seeks to rebuild his family life with his wife and children. Furthermore, it has been submitted that following the demise of his mother and sister, the petitioner finds himself in a vulnerable familial position, with certain property disputes having arisen, which also necessitate his presence outside prison to settle his residential and family affairs.

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55.8. It has been pointed-out that the victim, a Nepali national, could not be traced during the course of the trial despite repeated attempts by the police authorities. It has been submitted that the petitioner has been released on parole, emergency parole, interim bail, and furlough on several occasions, during which period there has not been a single adverse report or complaint of intimidation against him. It is the petitioner's case that accordingly, there is no material to substantiate any apprehension that upon the petitioner's release either the victim or the society would be under threat.

55.9. The SRB has rejected the petitioner's plea for premature release principally on the basis of the gravity, perversity and heinousness of the offence; the age of the convict; and the possibility of the petitioner committing crime again. It has been submitted that the gravity and seriousness of the offence, though undoubtedly relevant at the stage of conviction and sentencing, cannot constitute the sole basis for refusing premature release to the petitioner once the prescribed statutory and policy thresholds are met. Furthermore, it is the petitioner's case that the SRB's apprehension that the petitioner would 're-offend' is based on mere conjecture, which remains unsupported by any psychological or behavioural assessment report or record.

55.10. Insofar as SRB's concern that "*desperate crime shakes the confidence of society*" and leads to lack of faith of general public in the legal system is concerned, learned counsel for the petitioner has submitted that that narrative is unsupported by any community

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level objection, or any adverse police report, or any cogent law and order apprehensions.

55.11. Counsel for the petitioner has also pointed-out that while rejecting the petitioner's plea for premature release, the SRB has said that the "*conduct of the convict in jail is not necessarily a barometer of what he may do if outside prison*,"; however such reasoning is internally inconsistent since the SRB fails to provide any alternate, individualised basis for the adverse prediction. It has been contended that the SRB's reasoning is also self-contradictory inasmuch as the SRB itself notes the consistent good conduct, successful spells of the petitioner's release with 'zero' punishment record, and satisfactory overall jail conduct during the entire period of the petitioner's incarceration. It has also been submitted that the repetitive and mechanical rejections across four SRB meetings, and again in Aug–Sep 2024 on substantially identical grounds, show non-application of mind, non-consideration of updated reports, and repeated recycling of identical stereotyped reasoning by the SRB.

55.12. Learned counsel for the petitioner has submitted that the petitioner is determined to make a life outside prison and provide for his family members through honest means. It has been submitted that during the course of his incarceration, the petitioner has acquired several vocational and practical skills and is desirous of incorporating the same into lawful employment and livelihood upon his release; and that the petitioner's conduct in custody, repeated successful spells of release, and his sustained efforts toward rehabilitation clearly demonstrate that he has undergone

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substantial reformation and is prepared to reintegrate into the society as a responsible citizen.

55.13. In view of the aforesaid submissions, learned counsel has submitted that the petitioner's long period of incarceration beyond the prescribed eligibility threshold, consistently satisfactory jail conduct, strong rehabilitative indicators, repeated successful spells of release without violation, favourable stakeholder reports, the absence of any adverse material, the recent demise of his mother, the collapse of his immediate support structure, and the petitioner's genuine efforts to rebuild familial and social ties cumulatively establish the petitioner's suitability for premature release. In the circumstances, the petitioner has contended that the rejection comprised in the impugned minutes of the SRB meetings is unsustainable and deserves to be quashed; and the petitioner be granted premature release in accordance with the applicable policy and the Delhi Prison Rules.

VII. DISCUSSION & CONCLUSIONS

56. This court would now proceed to individually deal with the impugned rejection by the SRB of the plea for premature release in respect of the two petitioners.

Petitioner Ramesh:

57. The facts of the present case, viewed in the light of the principles culled out above, impel this court to draw the inferences as set-out below as regards the repeated rejection of the petitioner Ramesh's plea for premature release by the SRB.

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58. Inconsistency with governing principles of premature release: The legal position emerging from the precedents cited, and summarised by this court, is that remission and premature release concern the shortening by the State of the execution of the sentence, without affecting the guilt or the sentence as such, and that the focus must be on post-conviction conduct, propensity to re-offend, purpose and usefulness of continued confinement, and the socio-economic condition of the convict's family. Courts have authoritatively held that the gravity of the original offence and the length of the sentence imposed are static, historical facts which, by themselves, are not relevant considerations while deciding a plea for premature release, and that to treat them as dispositive of the plea for premature release would mean that no life convict would ever qualify for premature release.

59. In Ramesh's case, the SRB has repeatedly dwelt upon the heinous nature of the crime and broad formulations about the offence "shaking the confidence of society" and "not being in the interest of society at large", thereby allowing static factors and subjective societal reactions to override the statutory and policy-based criteria that must guide premature release. Such an approach runs directly contrary to the principle that a supposed "wrong" or "negative" message to society is not a relevant factor and is *de hors* the statutory criteria. The impugned minutes and prior rejections thus stand at odds with the court's own enunciation that continued incarceration must be justified on legitimate penological grounds, and cannot descend into a wrathful and vengeful system transforming a life sentence into a retributive death by incarceration.

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60. Misapplication of eligibility criteria and arbitrary reliance on static factors: The courts have clarified, that under the Delhi Prison Rules and the 2004 Guidelines, life convicts who are *not* governed by section 433A Cr.P.C. become eligible for consideration for premature release upon completion of 10 years' actual imprisonment and 14 years' incarceration with remission. Ramesh, whose conviction under section 302 IPC was altered by the Supreme Court to culpable homicide not amounting to murder under section 304-II IPC, while maintaining convictions under sections 376/377/34 IPC, falls squarely within the category of "other life convicts" eligible for premature release on completing 14 years of incarceration with remission, and not within the class of "murder convicts" to whom section 433A applies.

61. Yet, the SRB has repeatedly mis-characterised his conviction as one for murder and has treated him as a section 302 IPC convict, thereby applying a more onerous eligibility threshold of 20 years' incarceration including remission, which is reserved for prisoners governed by section 433A of the Cr.P.C. This fundamental error, persisting across several SRB meetings, has materially prejudiced the consideration of his case, since it has led to a misunderstanding of when he became eligible for premature release and has infected the SRB's assessment with a flawed legal premise. When the court has itself underscored that eligibility under the State's remission policy must be applied according to the nature of conviction and that gravity of the offence cannot be dispositive of the question, the SRB's repeated misapplication of eligibility criteria and insistence on the original offence as a barrier to release, is manifestly inconsistent with State policy and judicial doctrine.

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62. Failure to consider post-conviction conduct and propensity in accordance with law: Courts have recognised, that for purposes of Rule 1244 of the Delhi Prison Rules, the pre-conviction and post-conviction phases are distinct, and that it is the convict's post-conviction conduct which is the principal indicator of reformation. Sustained good conduct in custody cannot be discounted in the absence of contemporary evidence to the contrary, and any assessment of propensity to re-offend must be based on antecedents and conduct in jail, rather than on baseless apprehensions of victims or witnesses or generic references to age.

63. On the facts before this court, *Ramesh has undergone more than 31 years of actual imprisonment and over 40 years of incarceration with remission*, and during this period, he has not received a single jail warning, punishment, or adverse report over 03 decades. He has remained gainfully employed in Tihar's Printing Unit for more than 25 years, earning around Rs. 412/- per day, and has acquired multiple skill-development certificates, including National Certificates in Modular Employable Skills, Yoga Practitioner Certificates, and Certificates of Recognition for his work in the paper unit. He has been released on parole and furlough on about 32 occasions, aggregating to over 650 days outside prison, without a single instance of misuse, and has consistently surrendered on time and maintained impeccable conduct. Even during the period when this court had acquitted him, he did not exhibit any recidivist behaviour.

64. Notably, in its meeting dated 06.09.2017, the SRB has itself recorded that the petitioner had "Nil" propensity for committing crime. However, in subsequent rejections, including those that are impugned in the present

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proceedings, the SRB has mechanically asserted that the possibility of Ramesh reoffending "cannot be ruled out", without citing any intervening adverse conduct or fresh material to justify such a radical reversal of view. This unexplained departure from its own earlier assessment, in the teeth of continued exemplary conduct and absence of any adverse incident, violates the principle that an assessment of propensity to commit an offence must be grounded in objective factors, and that sustained good conduct cannot be lightly disregarded. The SRB's failure to accord due weightage to Ramesh's consistently good jail conduct and his demonstrated rehabilitation, and its resort to vague apprehensions, thus stand in clear derogation of the court's own principles governing premature release.

65. Ignoring socio-economic factors and structured criteria: The court has emphasised, that in addition to propensity to commit crime, and purpose and usefulness of continued incarceration, the socio-economic condition of the convict's family by reason of his confinement is also a key consideration in deciding a plea for premature release. It has also been mandated that the SRB's discretion must be exercised in a just and reasonable manner, in conformity with the 2004 Guidelines and the Delhi Prison Rules, after duly considering all relevant material, and that mere opposition by police authorities, in the absence of cogent material, is not a valid basis to decline release.

66. In Ramesh's case, the socio-economic plight of his family has been brought on record: his 85-year-old, frail and ailing mother resides in a single-room dwelling with his younger brother, who is about 55 years old and is unemployed and suffers from kidney-related ailments,

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rendering him incapable of maintaining a stable livelihood. The family survives almost entirely on Ramesh's prison earnings of about Rs. 12,000/- per month, and his mother's widow pension of Rs. 2,500/- per month, and is in acute financial distress and in a position of vulnerability. Despite this, the SRB's 18 prior rejections have not meaningfully engaged with the socio-economic condition of Ramesh's family, nor with the petitioner's *bona-fidé* intention to utilise his vocational skills in garment printing to establish a small-scale enterprise upon release, to provide financial and medical support to his dependants.

67. Instead, the impugned order relies on broad expressions such as "desperation crime", "shakes the confidence of the society", and that the petitioner's premature release would not be "in the interest of society at large", without undertaking the structured, criteria-based assessment mandated by the applicable rules and prior directions of the courts. The SRB has also attached weight to the opposition recorded by high-ranking officials, such as the Chief Probation Officer/Probation Officers and the Director, Social Welfare Department, which stands in stark contradiction to the consistent, reasoned recommendations of the Probation Officer and Social Welfare Officer who have directly supervised the petitioner and have supported his premature release in nearly every meeting. In the absence of any reasons or material explaining this divergence within the same departments, such opposition cannot displace the structured assessment required under the rules and guidelines. The acceptance of such baseless opposition by the SRB further evidences the arbitrary exercise of discretion by them.

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68. Procedural unfairness and repeated, unreasoned rejection: The courts have already laid down that the SRB is bound by the principles enunciated in the 2004 Guidelines, from which its discretion emanates, and that its decision-making must be reasoned and fair. Rule 1257(d) of the Delhi Prison Rules mandates consideration of a convict's case for remission every 06 months, reinforcing the expectation of periodic, *bona-fidé* review. The courts have also recognised that where the SRB's denial of premature release is arbitrary, unreasoned, or violative of Article 21, constitutional courts are empowered to intervene and direct the convict's release instead of remanding the matter, and that where a convict has served the maximum period contemplated under State policy and has faced repeated arbitrary rejection, remanding a matter would be futile and the High Court may step in to prevent failure of justice.

69. On the material placed before this court, Ramesh became eligible for premature release upon completion of 10 years of actual imprisonment and 14 years' incarceration with remission, yet his plea has been rejected on 18 occasions, on substantially identical and repetitive grounds, without any meaningful, individualised reassessment of his case. Even though by order dated 02.04.2024 in W.P.(CRL.) No.1041/2024, this court set-aside the SRB's decision dated 30.06.2023 and directed reconsideration in terms of the parameters laid down by the Supreme Court in *Ram Chander*, the SRB has once again rejected the petitioner's case on substantially the same grounds, without due application of mind to this court's binding directions or to the governing legal principles.

70. Moreover, the petitioner was last considered for premature release in August 2024; thereafter, 07 SRB meetings were held on 10.12.2024,

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02.04.2025, 24.04.2025, 30.07.2025, 16.10.2025, 23.12.2025, and 14.01.2026, yet his case was not reconsidered, in direct violation of Rule 1257(d). This sustained non-consideration, in spite of repeated eligibility and prior judicial intervention, shows that procedural unfairness and entrenched arbitrariness in the SRB's process. When seen against the backdrop of more than *31 years of actual incarceration and over 40 years with remission*, repeated mis-characterisation of conviction, failure to engage with post-conviction conduct and socio-economic factors, and the use of vague societal considerations, the SRB's decisions reveal a pattern of arbitrary, unreasoned rejection that offends Article 21 and the State's own remission framework.

71. Necessity of direct judicial intervention and release forthwith: The court has already articulated that where the SRB's decision suffers from manifest arbitrariness, failure to discharge statutory obligations, or violation of Article 21, the High Court may intervene and direct the convict's release, acting under Articles 226 of the Constitution in exercise of judicial power rather than the executive power of remission under sections 432 or 433 of the Cr.P.C. Courts have further held that where a convict has served the maximum period of incarceration contemplated under State policy and has faced repeated, arbitrary, unreasoned rejection, remanding the matter to the SRB would be futile, and direct intervention by the High Court is warranted to prevent gross miscarriage of justice.

72. Applying the principles discussed above to the case of Ramesh, this court is of the considered view that the rejection of Ramesh's plea for premature release on multiple considerations by the SRB, despite the

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length of his judicial custody including remission, is wholly inconsistent with the State's own premature release policy and binding judicial precedents. Moreover, the continued confinement of the petitioner serves no legitimate penological purpose. The SRB's decisions suffer from manifest arbitrariness, amount to failure to discharge statutory obligations, and violation of Article 21, resulting in palpable failure of justice.

73. Accordingly this court holds that Ramesh's case does not warrant remand to the SRB and that the only appropriate relief is to direct his release from custody forthwith.

74. As a sequitur, the impugned minutes of the SRB meetings dated 30.08.2024/18.09.2024 and the consequent order dated 04.12.2024 of the Government of NCT of Delhi, Home (General) Department, rejecting the petitioner's plea for premature release, are hereby set-aside, and it is directed that the petitioner **Ramesh s/o Jaswant** be released from custody *forthwith.*

Petitioner Tasleem:

75. Applying the principles enunciated above to the facts recorded for Tasleem, this court finds the following position.

76. Eligibility and long incarceration: As per the said principles, under the 2004 Guidelines a convict becomes eligible for consideration for premature release after 10 years' actual imprisonment and 14 years' incarceration including remission. As per nominal roll dated 06.10.2025, Tasleem had undergone more than 15 years' actual imprisonment and earned more than 3 years' remission as of the said date, thereby satisfying the eligibility criteria. His conviction under section 376(2)(g)

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IPC and sentence of life imprisonment were affirmed in appeal, and he is now about 53 years old, having been around 28 years of age at the time of the offence, reflecting a very long period under the rigours of a life sentence.

77. These facts squarely place Tasleem beyond the minimum thresholds contemplated by policy, engaging the principle that once a convict crosses the prescribed eligibility period, the focus must shift from the historical offence to the present status of reformation, the risk (if any) of release, and the genuine purpose that would be served by his continued incarceration (if any).

78. Jail conduct, reformation, and rehabilitation: On record, the reports of the Social Welfare Department and Prison Authorities positively recommend Tasleem's release, and though the police authorities have neither recommended nor opposed his release, there is no adverse report from his native police station. The petitioner has repeatedly been released on interim bail, parole, emergency parole, and furlough, with not a single adverse report or complaint of any wrongdoing on his part during those periods of temporary release. These "successful release spells with zero punishment record" demonstrate both good conduct in custody and safe behaviour in the community on the petitioner's part.

79. According to the submissions, the SRB itself notes the petitioner's consistent good conduct and satisfactory overall jail conduct, yet paradoxically, they discount these factors, and assert that jail conduct is not necessarily a barometer of conduct outside prison. However, the SRB does not offer any alternate, individualised basis for predicting that the petitioner would likely commit some crime if released. In light of the

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principle that sustained post-conviction good conduct is one of the main indicators of reformation, and absent any contrary contemporaneous evidence, cannot be lightly disregarded, the SRB's approach is plainly inconsistent with the governing standards.

80. On rehabilitation, Tasleem is stated to have acquired several vocational and practical skills while in custody, and that he is determined to earn an honest livelihood, and wishes to rebuild his family life with his wife and children. The demise of his mother and sister, the collapse of his immediate support structure, and pending property disputes requiring his presence underscore the socio-economic impact of continued confinement on him and his family, a factor the principles recognise as relevant in favour of premature release.

81. Risk, victim, and public-order perspective: The record says that the victim, a Nepali national, could not be traced during trial despite repeated attempts by the police. It also notes that during the petitioner's various spells of release, there has been no adverse report or complaint that he had attempted to intimidate any concerned persons, and there is no material to substantiate any apprehension that his release would place either the victim or society under threat. Under the settled principles as referred to above, the assessment of propensity to commit crime upon release must be based on antecedents and jail conduct, and not merely on age of the convict or unsubstantiated apprehensions. In Tasleem's case, any adverse antecedents or negative behavioural material post-conviction, is absent.

82. The reasons assigned by the SRB for rejecting the petitioner's premature release include: nature, gravity, heinousness, and perversity of the

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offence; presumed brutality; age of the victim; a conjectural possibility that the petitioner would re-offend if released; and a concern for "faith of general public in the legal system" and the idea that "desperate crime shakes the confidence of society". These are precisely the categories of considerations that are legally impermissible when considering a case for premature release, namely: gravity/heinousness of the original offence on a standalone basis; baseless apprehensions of risk to victim or society not tied to any objective conduct on the convict's part; and the notion of a "wrong message" to society, which is irrelevant and *de hors* the statutory criteria.

83. Family circumstances and socio-economic factors: The record also highlights Tasleem's vulnerable familial situation following the death of his mother and sister, the collapse of his immediate support structure, and ongoing property disputes that require his presence to stabilise his residential and family affairs. It further says that the petitioner intends to make genuine effort to rebuild family and social ties, which, when combined with strong rehabilitative indicators and good conduct, demonstrate his preparedness for reintegration into society as a responsible citizen.

84. Under the settled principles, the socio-economic condition of the convict's family by reason of incarceration is a relevant consideration, and the rehabilitative concept of penology requires that a life sentence be reducible so that there is a real incentive to reform and a meaningful opportunity for reintegration. Tasleem's situation aligns closely with this rehabilitative model, not with a purely retributive "death by incarceration" that the law explicitly rejects.

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85. In the above circumstances, the SRB's decision in Tasleem's case is flawed on various counts as discussed below.

86. Use of impermissible considerations: The SRB's reliance on the nature, gravity, heinousness, and presumed brutality of the original offence treats static historical facts as dispositive of the issue of premature release, which is contrary to the principle that these criteria cannot, by themselves, justify denial of premature release once other eligibility conditions are met. The SRB's concern about the "faith of general public in the legal system" would be shaken ; and that a desperate crime shakes society's confidence, namely, the "wrong/negative message" rationalé, is not a relevant factor and lies outside the judicially recognised criteria to be applied when considering a case for premature release.

87. Moreover, the SRB's fear that the petitioner would likely re-offend is purely conjectural and not supported by any psychological or behavioural assessment or objective material, and flies in the face of the petitioner's unblemished record of multiple releases and consistently satisfactory jail conduct. This view taken by the SRB directly contravenes the requirement that any assessment of propensity for crime must be anchored in actual antecedents and jail conduct, and that mere, baseless apprehensions cannot be dispositive of a request for premature release.

88. Failure to give due weight to mandatory factors: The SRB appears to have given short shrift to the favourable reports of the Social Welfare Department and the Prison Authorities, and to the absence of any adverse police reports, even though the settled principles say that even police opposition is irrelevant unless supported by cogent material, and that the

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SRB must exercise discretion in a just and reasonable manner considering all relevant material. In Tasleem's case there is not even police opposition; rather, there is neutrality and no adverse material, which should have strengthened the petitioner's case for release.

89. The SRB's own acknowledgment of Tasleem's good conduct, his 'zero' punishment record, and satisfactory overall jail conduct, combined with an unblemished record of release on multiple occassions, ought to have been treated as key indicators of reformation and diminished risk, consistent with the emphasis on post-conviction conduct contained in Rule 1244. The SRB's refusal to treat this as a reliable barometer, without suggesting any alternative objective basis, reflects a clear failure to follow the normative framework set-out above.

90. Repeated, stereotyped, and arbitrary rejection: The petitioner's plea for premature release has been rejected on four earlier occasions by the SRB (three meetings between 2021 and 2023, and a meeting again during the pendency of the present petition), on substantially identical grounds. As asserted on behalf of the petitioner, the SRB has engaged in repetitive and mechanical rejection "on substantially identical grounds," without considering the updated reports and by recycling stereotyped reasoning, demonstrating non-application of mind by the SRB.

91. Under the principles articulated above, in cases where the SRB's decision suffers from manifest arbitrariness, failure to discharge statutory obligations, or violation of Article 21, constitutional courts may intervene directly and order the release of a convict instead of remanding the matter. This is especially so where the convict has already served the maximum period contemplated by the governing policy and endured

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repeated arbitrary, unreasoned rejections. Tasleem has served more than the minimum stipulated period and has faced repeated, essentially unreasoned rejections, that ignore the favourable material that has come on record and rely on impermissible considerations, triggering the very situation in which direct judicial intervention is contemplated.

92. As a sequitur to the above, on a faithful application of the settled principles for premature release culled-out above to Tasleem's case, this court is of the view that the SRB's rejection of his plea for premature release is contrary to the State's remission policy framework, the Delhi Prison Rules, and the judicial principles emphasising reformation, objective risk assessment, and socio-economic considerations, instead of a historical, static, offence-based policy of retribution. The SRB has relied on factors explicitly treated as irrelevant (gravity of original offence, "wrong message" to society, abstract harm to public faith); they have disregarded mandatory considerations (post-conviction conduct, favourable institutional and police reports, successful releases, family hardship); and have repeatedly recycled stereotyped reasoning, rendering their decisions arbitrary and violative of Article 21.

93. In these circumstances, consistent with the recognition of the constitutional courts' power and duty to prevent failure of justice in the face of such arbitrariness, it is held that the petitioner - **Tasleem** s/o **Islamuddin** - is entitled to premature release from custody. Accordingly, it is directed that he be released from custody *forthwith*.

94. The two petitions are disposed-of in the above terms.

95. Pending applications, if any, also stand disposed-of.

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96. A copy of this judgment be forwarded to the concerned jail superintendent *forthwith*.

97. Before concluding, this court expresses its sincere gratitude to Ms. Rebecca M. John, learned senior counsel and *Amicus-Curiae*, ably assisted by Ms. Anushka Baruah and Mr. Chinmay Kanojia, Advocates as well as by Ms. Ninni Suzan Thomas, Advocate; Ms. Sowjhanya Shankaran, Advocate ably assisted by Mr. Siddharth Satija, Ms. Anuka Bachawat, Ms. Charu Sinha, Ms. Ragini Nagpal, Ms. Shrutika Pandey, Mr. Rahul, and Mr. Arjun Chopra, Advocates; and Mr. Sarthak Maggon, Advocate for the petitioners; as well as Mr. Sanjeev Bhandari and Mr. Amol Sinha, learned ASCs (Criminal) ably assisted by Mr. Kshitiz Garg, all of whom have rendered invaluable assistance in the matter.

A. J. BHAMBHANI, J.

AUGUST 10, 2026
HJ

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