

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr.) No. 299 of 2019**

Gaurishankar Singh S/o Vishveshwar Singh Aged About 65 Years Convict No. 7165/119, Lodged In Raipur Central Jail, Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Chief Secretary, Mantralaya, Naya Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Secretary, Department Of Home, Mantralaya, Naya Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. Director General Prisons The Jail And Correctional Services Chhattisgarh, Jail Raod, Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
4. Jail Superintendent, Central Jail Raipur, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents

For the Applicant : Ms. Rajni Soren, Advocate.
 For the Respondents/State : Shri Himanshu Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****01.07.2019**

Heard.

1. This petition has been brought under Article 226 of the Constitution of India praying for issuance of appropriate writ of mandamus directing the respondents to consider the petitioner's application for release in a time bound manner under the provisions of Section 432 of the Cr.P.C. and Rule 358 of the Chhattisgarh Prisons Rules, 1968.
2. It is submitted by counsel for the petitioner that the petitioner has after his conviction served more than 14 years in jail without counting the remission and with remission his imprisonment is calculated to be about

more than 25 years. The petitioner has filed an application under Section 432(2) of the Cr.P.C. to the respondents which was forwarded on 20.2.2016 and his application has not been considered so far. Hence, it is prayed that the relief be granted.

4. Learned counsel for the respondents opposes the petition.

5. Heard counsel for both the parties and perused the documents.

6. Rule 358 of the Chhattisgarh Prisons Rules, 1968 clearly provides that any prisoner who had undergone more than 14 years in jail sentence his case shall be reported to the State Government through the Inspector-General Prison with full information regarding the character of his crime, his conduct in prison and the probability of his reverting after release to criminal habits or instigating others to commit crime, which shall be considered before any decision is taken by the State Government. Similarly Section 432 of the Cr.P.C. empowers the appropriate Government either to suspend the execution of sentence or remit the whole or any part of sentence for which any person has been sentenced.

7. Division Bench of this Court has made observations in this respect in W.P.(PIL) No. 78 of 2017 order dated 2.5.2019. Hence, the petition is disposed off at the motion stage with this direction that the respondents shall consider the representation of the petitioner forwarded on 20.2.2016 in accordance with the directions issued by the Division Bench of this Court in W.P.(PIL) No. 78 of 2017 preferably within a period of one month.

Sd/-

(Rajendra Chandra Singh Samant)
Judge