

D/L.6.
April 15, 2024.
MNS.

WPA No. 1994 of 2024

Kumar Khamri
Vs.
The State of West Bengal and others

Mr. Pinak Kumar Mitra,
Ms. Sampurna Ghosh

... for the petitioner.

Mr. Himanshu Gupta

...for the respondent-authorities.

1. The supplementary affidavit filed on behalf of the petitioner in Court today be kept on record.
2. A challenge has been preferred by way of the said supplementary affidavit, as per liberty granted to the petitioner by this Court, to the refusal of the consideration of the request for premature release of the petitioner.
3. Learned counsel for the petitioner submits that whereas the minutes of the meeting handed over by the respondent authorities reflected a *suo moto* consideration on such count, the petitioner filed an independent application, which has not yet been considered.
4. Be that as it may, since the respondent authorities have already considered the issue of premature release of the petitioner, let us focus on the said decision in order to

ascertain whether the same complies with the relevant yardsticks as settled in law.

5. It is well-settled by different judgments of the Supreme Court and the High Courts, that apart from the opinion of the police, the report of the Superintendent of the Correctional Home, where the petitioner was incarcerated, as well as the other relevant officials, including the Probation-cum-After Care Officer, are to be looked into for the purpose of ascertaining the conduct of the petitioner during the entire period of custody as well as whether the petitioner was guilty of any untoward activity during parole. There is no such reflection in the decision of the State Sentence Review Board (SSRB).
6. That apart, it is also to be considered as to whether the petitioner is ready to be properly reintegrated into mainstream society.
7. It transpires from the order impugned herein that the same, in a cryptic manner, merely referred to the nature of the crime committed by the petitioner more than 17 years back. Such consideration simpliciter cannot be a relevant yardstick.
8. The order also shows that the concerns of the victim family and their agitation has been taken note of and the age and potentiality of

the victim and the detention period have also been referred to. However, such cryptic reference is mere lip-service and there is no reflection in the said impugned decision as to why the petitioner's age by itself can be a deterrent for his premature release, particularly since the petitioner has already been in incarceration for so long and in all probability the presumption should be that the potentiality of the victim and his connection with other accomplices have been lost long back.

9. Hence, the consideration given to the petitioner's case in the impugned decision is not satisfactory.

10. Accordingly, WPA No. 1994 of 2024 is disposed of by directing the SSRB (State Sentence Review Board) to reconsider the petitioner's case for premature release by applying the proper yardsticks as stipulated by the Supreme Court in different judgments and the National Human Rights Commission. Such consideration shall be completed preferably within six weeks from date and the outcome of the consideration communicated to the petitioner immediately thereafter.

11. Since no affidavits were invited from any of the respondents, it will be deemed that the

respondents have not admitted any of the allegations made in the writ petition.

12. There will be no order as to costs.

13. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)