



2024:DHC:8763



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of order: 13th November, 2024**

+ **W.P.(CRL) 3247/2024, CRL.M.A. 31356/2024, CRL.M.A. 31357/2024 & CRL.M.A. 31358/2024**

VINOD ALIAS GANJAPetitioner

Through: **Mr. Rajashekhar Rao, Senior Advocate assisted by Mr. Sarthak Maggon, Adv. with Ms. Tanvi, Adv. and Mr. Zahid Ahmed Laiq, Adv.**

versus

STATE OF NCT OF DELHI & ANR.Respondents

Through: **Mr. Sanjeev Bhandari, ASC for the State.**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant writ petition has been filed under Article 226 of the Constitution of India on behalf of the petitioner seeking the following reliefs:

“a) Allow the present petition in favour of the Petitioner in FIR No. 40/1992, PS Mukherjee Nagar by passing appropriate orders/ directions as well as issuance of writs in the nature of mandamus or certiorari or any other applicable writ and/ or directions or order to the Respondents thereby allowing premature release of the Petitioner in accordance with the applicable short sentencing policy of the Respondent i.e. 2004



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Guidelines on account of delay in consideration by the Competent Authority;

b) Pass any other writ, order or direction that this Hon'ble Court may consider fit and proper in the interest and furtherance of justice."

2. The brief facts of the case are that an FIR bearing no. 40/1992 was registered under Sections 302/307/34 of the Indian Penal Code, 1860 (hereinafter as 'IPC') read with Section 27 of the Arms Act, 1959 against the petitioner at Police Station - Mukherjee Nagar, New Delhi.
3. In the year 2000, the petitioner was convicted under the said offences by the learned Additional Sessions Judge, Tis Hazari Court, Delhi *vide* order dated 21st March, 2000 and was directed to undergo life imprisonment.
4. Subsequently, the said conviction was upheld by the Co-ordinate bench of this Court in the year 2016 *vide* order dated 8th February, 2016.
5. In the year 2023, the petitioner was released on furlough *vide* order dated 29th September, 2024. In W.P. (Crl) bearing no. 477/2023, the petitioner was arrayed as a party and was granted protection from surrendering by the Hon'ble Supreme Court *vide* order dated 9th October, 2023.
6. Thereafter, the jail authorities issued communication dated 18th October, 2023 acknowledging the list of convicts eligible for grant of premature release. However, it is stated that the case of the petitioner is yet to be considered by the Sentence Review Board ('SRB' hereinafter).



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7. Aggrieved by the same, the instant petition has been filed by the petitioner.

8. Learned senior counsel appearing on behalf of the petitioner submitted that the petitioner has maintained good conduct throughout his period of incarceration and he has been in judicial custody for 14 years, 2 months, 28 days.

9. It is submitted that despite being eligible for premature release, the SRB did not take his case for consideration, therefore, violating the fundamental rights provided to him under Article 21 of the Constitution of India.

10. It is submitted that the respondent-State has failed to abide by the SRB Guidelines, 2004 ('2004 policy' hereinafter) and the non-conformation to the same is a ground for this Court to intervene and grant relief to the petitioner.

11. It is submitted that the serious lapse on part of the authorities is not only in contravention to their own policy, but also to numerous judgments given by this Court, whereby, it was held that non-conducting of the SRB is an infringement of the fundamental right of an inmate.

12. It is submitted that the similarly placed convicts have already been released while petitioner's case is not yet considered, therefore, the said non-action on part of the respondent-State has led to undue hardships to the petitioner.



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13. It is also submitted that the petitioner has the additional responsibility of looking after his brother's family after his death in the year 2021, and therefore, his release is necessitated by several factors.

14. Therefore, in view of the foregoing submissions, the learned senior counsel prayed that the present petition be allowed.

15. *Per Contra*, the learned ASC appearing for the state vehemently opposed the instant petition submitting to the effect that the present petition is nothing but a gross abuse of the process of law.

16. It is submitted that the SRB has already considered the case of the petitioner in the meeting held on 23rd February, 2024 and rejected his plea for premature release.

17. It is submitted that the relevant rules do not bar any convict to be eligible for consideration for premature release again, however the same can only be done post 6 months from the last date of consideration, therefore, the case of the petitioner shall be placed before the SRB in the next meeting and the instant petition being devoid of any merit may be dismissed.

18. Heard the learned counsel for the parties and perused the records.

19. The present petition has been preferred by the petitioner on the ground that the respondent-State has failed to constitute an SRB for consideration of his premature release, therefore, violating his fundamental right to life and liberty.

20. In rebuttal, the learned ASC has stated that the SRB was duly constituted and the petitioner's case was considered in the meeting dated



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23rd February, 2024 and the decision of rejection was conveyed *vide* order dated 15th October, 2024.

21. As discernible from the facts, the petitioner was convicted in the year 2000 and the same was upheld by this Court in the year 2016. In the year 2023, the petitioner was granted furlough and the same was extended on various occasions.

22. It is no doubt that the 2004 policy prescribes for release of the convicts once they become eligible for the same as per the rules provided under the policy. The relevant part of the same reads as under:

“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.



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However, in case of a dissent, the majority 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 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.”



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23. The perusal of the said rule makes it clear that the SRB is the appropriate authority to decide the case for premature release of an inmate and the said recommendation shall be put before the competent authority.

24. In the instant case, the material on record shows that the SRB meeting held on 23rd February, 2024 duly considered the case of the petitioner and rejected his plea for premature release *vide* order dated 15th October, 2024.

The contents of the order dated 15th October, 2024 are as follows:-

“Reference to the subject cited above, I am directed to convey that the Sentence Reviewing Board in its meeting held on 23rd February 2024, considered the cases of 92 convicts for premature release. Out of Ninety Two (92) cases, Fourteen (14) cases were recommended for premature release, Seventy Eight (78) cases were rejected by Sentence Reviewing Board

S No.	Name	Parentage
1.	Karan Singh	Sh. Man Chand
2.	Madan Gopal	Sh.Nanak Chand
3.	Nain Singh	Sh.Lekh Raj
4.	Ombir	Sh. Lekh Raj
5.	Praveen Kumar Jain	Sh. Padam Chand Jain
6.	Rahul@Puneet@ Philips	Sh. Rajender
7.	Ranbir Singh @ Pehlwan	Sh.Lakhi Ram
8.	Robin @ Babloo	Sh. Randhir Singh
9.	Sachin@ Kapil	Sh. Kasturi Lal
10.	Sanjeev Mahajan	Sh. Sohan Lal
11.	Shambhu	Sh. Bans Raj
12.	Shyam Lal	Sh.Tara Chand
13.	Somnath @ Putli	Sh.Bhikari Lal
14.	Sunil Kumar	Sh. Mahender Kumar Pal
15.	Surjeet Munda	Sh.Sukhram Munda

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16.	Vinod	Sh. Ram Nath
17.	Abhimanyu @ Shyam	Sh. Babu Ram
18.	Dharmender Kumar Pal	Sh.Kanoji Lal
19.	Gopi Chand @ Pappu	Sh. Mange Ram
20.	Hardayal Singh	Sh. Surjit Singh
21.	Narender @ Pappu	Sh.Puran Singh
22.	Ram Dass	Sh. Ishwar Singh
23.	Rashid	Mohd Akil
24.	Ravi Shankar	Sh. Latoori Singh
25.	Suresh	Sh.Hari Lal
26.	Arun Kumar Mishra	Sh.Ram Avtar Mishra
27.	Nand Kishore	Sh.Hira Lal
28.	Kamruddin@ Kamru@ Mobile	Sh.Suleman
29.	Shamshad@ Khutkan	Sh.Hakim Ali
30.	Lal Bahadur	Sh.Jai Ram
31.	Mahavir Prasad	Sh.Dal Chand
32.	Mahinder Kumar	Sh.Ramji Lal
33.	Ashish Nandwana	Lt.Sh. Ashok Nandwana
34.	Dhanvinder Singh	Sh. Bakshish Singh
35.	Mohd. Farooo @ Gainda	Sh. Mominuddin
36.	Jahangir @ Ekka@ Ibrahim	Sh.Abdul Hakim
37.	Karan Mandal	Sh.Shyam Mandal
38.	Radhey Shyam	Sh. Ramdin
39.	Rakesh	Sh.Shankar Lal
40.	Rajender Maurya	Sh. Sri Ram Maurya
41.	Raju @ Kundan	Sh. Jagdish Prasad
42.	Rohit	Sh. Sohan Lal
43.	Saurabh Sharma	Lt. Sh. Major Ravinder Sharma
44.	Sonu	Sh. Veera
45.	Subhash Chander	Sh.Hari Chand
46.	Usman	Sh. Rahim Baksh

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47.	Vinod@ Vinoda@ Bole	Sh. Kamta Prasad @ Kamta Yadav
48.	Vipin Kumar Saluja	Sh. Ramesh Kumar Saluja
49.	Amjad Ali Mughal	Mohd. Anwar
50.	Ashok@ Bobby	Sh. Bishan Dass
51.	Mukesh Kumar	Sh. Munna Lal
52.	Navccn Ahuja	Sh. Ashok Ahuja
53.	Ravinder Rana	Sh. Kanwar Lal
54.	Sant Ram @ Sadhu Ram	Sh. Bhagwan Dass
55.	Mahesh	Sh. Babu Lal
56.	Hansraj @ Hansa	Sh. Nathu Ram
57.	Har Singh	Sh. Ganesh Lal
58.	Harpreet Singh	Sh. Amrik Singh
59.	Satender Singh	Sh.Parmanand Singh
60.	Jitender Kumar @ Vickey	Sh. Satpal Gulati
61.	Kabir	Sh. Abdul Hassan Sheikh
62.	Manoj Kumar Singh	Sh. Bindeshwari Singh
63.	Moti @ Mohit	Sh. Dhan Bahadur
64.	Naeem @ Naimuddin	Sh. Shamimuddin
65.	Pintu @ Bintu	Sh.Bahadur Singh
66.	Rahul @ Budh Prakash	Sh. Mahesh
67.	Raja Ram	Sh. Bihari Lal
68.	Rani @ Manju	Sh.Dharmender
69.	Sandeep @ Samman	Sh. Azad Singh
70.	Surender Kumar	Sh. Azad Singh
71.	Surjeet Singh@ Ajay @ Sanjay @ Payyu @ Suraj	Sh.Suraj @ Chunni Lal
72.	Vijay Kumar @ Mannu	Sh. Pritam Singh
73.	Vinod Kumar	Sh.Babu Lal
74.	Virender Kumar @ Mintu	Sh. Brijpal Singh
75.	Md. Badal Farazi	Lt. Sh. Kolek Farazi @ Abdul Khaleque Farazi
76.	Mahesh Sharma @ Chintu	Sh. Ram Swaroop
77.	Babu Lal	Sh. Param Lal

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78.	Irfan Badshah	Sh. Abdul Jabbar
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*The minutes of the meeting were duly approved by the Hon'ble
Lt Governor Delhi, the Competent Authority in the matter.*

The convicts may be informed accordingly”

25. Therefore, in terms of the above said order, nothing survives in the instant petition as the occasion to relief prayed by the petitioner does not arise.

26. As per the minutes placed on record by the respondent-State, the case of the petitioner was considered by the SRB and the same was rejected and upheld by the appropriate authority.

27. Furthermore, the minutes dated 15th October, 2024 also depicts that the petitioner is not the only convict who got rejected, rather there are 78 more convicts on the similar footing, therefore, the argument of the learned senior counsel for the petitioner regarding the principle of parity does not stand.

28. Therefore, this Court is satisfied that the case of the petitioner was duly considered by the SRB and the minutes of the order dated 15th October, 2024 have been duly supplied.

29. At this juncture, this Court deems it appropriate to hold that the 2004 policy merely provides for a right to the convicts for consideration for premature release, however, the same does not confer a surety of their release.



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30. At last, this Court deems it appropriate to deal with the argument advanced by the learned ASC on the aspect of non-surrender by the petitioner before the concerned authorities.

31. It is not in dispute that the petitioner was granted interim protection by the Hon'ble Supreme Court *vide* order dated 1st October, 2024, however, the same was only granted till 21st October, 2024 and the petitioner has yet not surrendered.

32. On the said aspect, this Court is of the view that the conduct of the petitioner is unsatisfactory and the Court directs the petitioner to surrender within three weeks from the date of passing of this order.

33. In view thereof, the instant petition stands dismissed, along with pending applications, if any.

34. Order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

NOVEMBER, 13 2024

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Click here to check corrigendum, if any

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