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

+ **W.P.(CRL) 1661/2023 & CRL.M.(BAIL) 1642/2023**

SONU SONKAR

.....Petitioner

Through: **Mr. Arpit Batra, Advocate**

versus

THE LT. GOVERNOR DELHI & ORS.

.....Respondents

Through: **Mr. Amol Sinha, ASC for the State
with Mr. Kshitiz Garg, Mr. Ashvini
Kumar, Mr. Nitish Dhawan, Ms.
Sanskriti Nimbekar, Advocates with
SI R. Singh, PS Adarsh Nagar**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

20.05.2025

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1. Through the present petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973¹, the Petitioner seeks setting aside to the order dated 24th September, 2022 passed by the Dy. Secretary (Home), GNCTD, affirmed by the Hon'ble Lt. Governor of Delhi, whereby the sentence remission granted to the Petitioner by the Sentence Review Board, GNCTD² has been revoked, thus directing him to serve the remainder of his original sentence.

2. The Petitioner was convicted in FIR No. 483/2004 under Sections 302

¹ "Cr.P.C."

² "SRB"



and 34 of the Indian Penal Code, 1860³, registered at P.S. Adarsh Nagar, Delhi and sentenced to undergo RI for life. After completing fifteen years of incarceration, he applied for premature release on the ground of sustained good conduct while in custody. The SRB, upon consideration of his case in its meeting held on 19th July, 2019, recommended his premature release, which was duly accepted by the competent authority. In consequence, *vide* order dated 9th September, 2019, the Petitioner was released from custody upon furnishing a personal bond.

3. However, while on remission, the Petitioner came to be arraigned as an accused in FIR No. 539/2021 registered at P.S. Subzi Mandi under Sections 307 and 34 of IPC as well as Sections 25, 54 and 59 of the Arms Act 1959.⁴ He was arrested and remanded to judicial custody on 30th November, 2021, and lodged in Central Jail No. 2, Tihar.

4. The initiation of fresh criminal proceedings against the Petitioner was construed by the authorities as a breach of the undertakings embodied in the personal bond executed at the time of his premature release. Accordingly, the Deputy Secretary (Home), GNCTD, upon the approval of the Hon'ble Lieutenant Governor, passed the order dated 24th September, 2022 cancelling the remission granted to the Petitioner and directing that he be remanded to serve the remainder of his original sentence. The said communication reads as under:

“Sub: Regarding violation of condition of premature release by life convict Sonu Sonkar S/o Raushan Pahelwan

Ref.:- Letter No. F10/CD No. 003691187-CJ-1/SRB/PHQ/2022/36902/2809, Dated:- 08.06.2022.

³ “IPC”

⁴ “Arms Act”



Sir,

With reference to your office letter dated 08.06.2022 on the subject cited above wherein it was requested to issue/pass necessary order regarding cancellation of remittance of sentence to the convict Sonu Sonkar S/o Raushan Pahelwan, recommended by the Sentence Review Board for pre-mature release vide its meeting held on 19.07.2019 in case FIR No. 484/2003, U/s 302/34 IPC, P.S.- Adarsh Nagar, and to serve the original sentence as the above said convict has failed to abide by terms and conditions mentioned in the personal bond.

In this regard, I am directed to convey the approval of Hon'ble Lt. Governor of Delhi regarding the cancellation of remittance of the sentence to the above said convict recommended by the Sentence Review Board for pre mature release vide its meeting held on 19.07.2019 in case FIR No, 484/2003, U/s 302/34 IPC, P.S. Adarsh Naar, Delhi with directions to serve his original sentence in the said case.

This is for information and necessary action at your end please."

[Emphasis supplied]

5. Pursuant to the aforementioned order, the Petitioner was taken into custody on 28th February, 2023, to serve the remainder of his original life sentence awarded in FIR No. 483/2004.

6. Mr. Arpit Batra, counsel for the Petitioner, challenges the cancellation order on multiple grounds. He contends that the Petitioner has been falsely implicated in FIR No. 539/2021, which was registered owing to a longstanding personal enmity between the Petitioner and the complainant in that case and further points out that the Petitioner has already been granted regular bail by the Trial Court in the said proceedings. He submits that the mere pendency of a fresh FIR, particularly one in which the allegations are yet to be tested through trial, cannot, by itself, constitute sufficient basis to revoke a remission that had been duly granted pursuant to a favourable recommendation of the Sentence Review Board and approval of the



competent authority.

7. It is further urged that the cancellation of remission ought not to rest solely on the existence of allegations, much less where such allegations remain unproven and contested. To permit a mere accusation to negate the effect of remission, it is argued, would render the remission process precariously dependent on unverified complaints, undermining the very objective of conditional release based on good conduct and reformation.

8. Additionally, Mr. Batra submits that the impugned cancellation suffers from a fundamental procedural infirmity, having been passed in violation of the Principles of Natural Justice. The Petitioner was neither issued a show cause notice nor given an opportunity to respond to the allegations before the order was passed. The revocation of remission, which carries the grave consequence of re-incarceration, must, it is urged, be preceded by a meaningful opportunity of hearing. In this regard, reliance is placed on the judgment of the Supreme Court in ***Mafabhai Motibhai Sagar v. State of Gujarat & Ors.***⁵, wherein the Court held that an order cancelling remission must conform to the minimum requirements of natural justice. Reference is also made to the Court's observations in ***In Re: Policy Strategy for Grant of Bail***⁶, to reinforce the argument that procedural fairness is an indispensable safeguard, particularly where personal liberty is at stake.

9. Opposing the petition, Mr. Amol Sinha, ASC (Criminal) for the State, submits that at the time of his premature release, the Petitioner executed a personal bond undertaking to abide by specific conditions, including that he would remain a law-abiding citizen and refrain from all forms of anti-social

⁵ 2024 SCC OnLine SC 2982

⁶ 2025 SCC OnLine SC 349



or criminal conduct. In particular, the Petitioner expressly agreed not to engage in any unlawful activities for the remainder of his sentence, as stipulated in clauses 1 to 3 of the said bond.

10. Mr. Sinha contends that the Petitioner's subsequent implication in FIR No. 539/2021, which involves serious allegations under Section 307 of the IPC and offences under the Arms Act, constitutes a material and substantive breach of those conditions. He submits that the invocation of such grave provisions reflects not a minor infraction but a significant violation warranting cancellation of remission.

11. As regards the Petitioner's reliance on judicial precedent, Mr. Sinha argues that the authorities cited by the Petitioner themselves acknowledge the State's prerogative to revoke remission when the underlying conditions have been violated. On the question of whether a show cause notice ought to have been issued prior to such cancellation, he points out that the impugned order was passed on 24th September, 2022, well before the Supreme Court's ruling in ***Mafabhai Motibhai Sagar***, which clarified the legal position on this issue.

12. He further submits that at the time of cancellation, the governing legal framework was Rule 1258 of the Delhi Prison Rules, 2018, which did not mandate the issuance of a prior show cause notice before revoking remission. As such, Mr. Sinha argues, the decision taken by the Respondents was in conformity with the applicable law and cannot be faulted on procedural grounds.

13. Nonetheless, in light of the subsequent evolution of law as articulated in ***Mafabhai Motibhai Sagar***, Mr. Sinha, on instructions, states that the Respondents are willing to issue a show cause notice to the Petitioner at this



stage. A fresh decision will thereafter be taken based on the Petitioner's response, in a time-bound manner, thereby affording him an effective opportunity to be heard.

14. The Court has considered the aforementioned contentions. It is pertinent to take note that at the time of his premature release, the Petitioner executed a personal bond containing a binding undertaking, the relevant terms of which read as follows:

“PERSONAL BOND

WHEREAS, I, SONU SONKAR S/O ROSHAN PEHALWAN, R/o H. No. 150, Akhare Wali Cey, Kebr Bast, Malka Ganj, Delhi has been sentenced by the Learned Court of Sh. Virender Kumer Coel, Ld. 451, Delhi on 15.11.2011 to undergo RI for Life & Fine Rs. 5,000/- I/D 03 Years SI and Is presently confined in Central Jail No. 2, Tihar, New Delhi in the case under reference.

WHEREAS, the Lt. Governor of NCT of Delhi is pleased to prematurely release me on recommendations of SRB subject to furnish a Personal Bond in the sum of Rs. 10,000/- to the satisfaction of the Superintendent Central Jail No. 02 on the following terms and conditions that:

- 1. I shall remain law abiding and refrain from any anti-social and criminal activities.*
- 2. I shall maintain peace and good behavior as expected of a useful and responsible citizen of society and the country as a whole.*
- 3. I shall also maintain peace and will not indulge in any unlawful/ Criminal activity during the unexpired portion of sentence i.e. 23.12.2023.*

NOW, therefore, I SONU SONKAR S/O ROSHAN PEHALWAN do hereby undertake and bind myself to pay to the Government of NCT of Delhi a sum of Rs. 10,000/- (Rs. Ten thousand only), in the event I fail to abide by terms and conditions as specified herein above.”

15. The above undertaking clearly required the Petitioner to refrain from any criminal activity during the remainder of his sentence. However, the subsequent registration of FIR No. 539/2021 against him, involving serious



allegations under Section 307 IPC and provisions of the Arms Act, constituted, at least *prima facie*, a breach of that condition. In such circumstances, the Respondents invoked Rule 1258(II) of the Delhi Prison Rules, 2018, which reads as follows:

“Violation of Conditions

1258. If any convict violates any condition then he will be dealt as under:-

- I. If any convict, before being released from the prison, after being recommended by the SRB and yet to be approved by the Government for release commits any prison offence or offence under any law for the time being in force then his case will again be put up before next SRB after withdrawing his case from the Government, or if the case is approved by the Government then the case of the convict will be put up before the next SRB only after approval of the Government.*
- II. If any convict after being released from the prison violates any condition of the release or commits any offence under any law for the time being in force then he will be sent back to the prison after taking approval from the Government to serve the original sentence.*

[Emphasis supplied]

16. The Court is of the view that this is not a case of technical or inconsequential non-compliance. The offence alleged is grave, and the initiation of prosecution under Section 307 IPC is sufficient to trigger reconsideration of remission, particularly in light of the explicit terms of the personal bond.

17. That said, the central issue before this Court is whether the impugned cancellation order suffers from infirmity due to the violation of the principles of natural justice. This issue is no longer *res integra*. In ***Mafabhai Motibhai Sagar*** the Supreme Court has categorically held that any decision to revoke remission must comply with due process and must be preceded by



the issuance of a show cause notice, disclosing the grounds for cancellation and granting the convict an opportunity to respond and be heard.

18. The aforesaid judgment affirms that the liberty of a person cannot be curtailed through administrative fiat without affording procedural safeguards. Since the cancellation of remission results in the convict's re-committal to custody, the consequence is serious enough to require strict adherence to natural justice.

19. In the present case, the record does not reflect that such an opportunity was extended to the Petitioner before the cancellation of remission. While the order was passed in accordance with Rule 1258(II) of the DP Rules, 2018, which at the relevant time did not mandate a prior show cause notice to be issued, the binding precedent of the Supreme Court now requires that such safeguard be read into the process. Accordingly, and in the interest of fairness, the Court deems it appropriate to direct reconsideration of the cancellation through a procedurally sound and time-bound exercise, in the following terms:

19.1. The Respondent shall within a period of 10 days from today issue a show cause notice detailing the specific grounds on which cancellation of remission is proposed.

19.2. Upon receipt of the said notice, the Petitioner shall submit a written response within seven (7) days and shall also be afforded an opportunity of personal hearing.

19.3. The competent authority shall thereafter pass a reasoned order, after due consideration of the Petitioner's response, within a period of four (4) weeks from today.

19.4. If the Petitioner is aggrieved by the final decision, he shall be at



liberty to avail of appropriate remedies in accordance with law.

20. With the above directions, the petition is disposed of along with pending application(s).

SANJEEV NARULA, J

MAY 20, 2025/ab